

# 2012 Interim LEGISLATIVE

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\* Read on-line at [www.lrc.ky.gov/legislation.htm](http://www.lrc.ky.gov/legislation.htm)\*



## RECORD

## Calendar set for 2013 Regular Session

The 2013 Regular Session of the Kentucky General Assembly is scheduled to begin on Jan. 8 and will last 30 legislative days.

As usual during an odd-numbered year, in which sessions are half as long as in even-numbered years, the session will have two parts. The first four days of the session – Jan. 8 to Jan. 11 – will focus on organizational work, such as electing legislative leaders, adopting rules of procedure and organizing committees. The introduction and consideration of legislation can also begin during this time.

The second part of the session begins on Feb. 5, with final adjournment scheduled for March 26.

Legislators will not meet in session on Feb. 18 in observance of Presidents' Day.

The veto recess – the period of time when lawmakers commonly return to their home districts to see which bills, if any, the governor vetoes – begins on March 12. Lawmakers will return to the Capitol on March 25 and 26 for the final two days of the session.

The 2013 session calendar can be viewed online at [http://www.lrc.ky.gov/sch\\_vist/13RS](http://www.lrc.ky.gov/sch_vist/13RS)

## Lawmakers question drop in coal severance tax revenues

by Rebecca Hanchett  
*LRC Public Information*

A decrease in the state's coal severance tax revenues this fiscal year will likely require prioritization of some coal severance projects funded in the 2013-2014 state budget, a state legislative committee heard on Sept. 6.

The state's single county coal project fund will feel the biggest impact, according to Department for Local Government Commissioner Tony Wilder, whose agency administers coal severance project funds for Kentucky's single and multi county coal projects. Wilder told the Interim Joint Committee on Natural Resources and Environment that 27 of 35 coal counties eligible for coal severance project funding are expected to be short the money needed to fund single county coal projects approved for their county in the current state budget.

"It's going to be an exercise in prioritizing," Wilder told the committee.

Projected coal severance tax revenues for fiscal year 2013 are expected to be reduced by \$88.3 million due to a slowdown in Kentucky's coal markets, state budget and other officials told the committee. That will impact resources



Natural Resources and Environment Committee Co-Chair Sen. Brandon Smith, R-Hazard, chairs the committee's Sept. 6 meeting at the Salato Center in Frankfort.

available for single- and multi-county coal projects by \$20.7 million and \$10.3 million respectively, said Deputy State Budget Director John Hicks.

While the total amount of approved single county coal projects for fiscal year 2013 is \$64.3 million, state officials said funding available to move the projects forward will be affected by new

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## New tool available for education policy making

by Amy Rose Karr  
*LRC Public Information*

Kentucky lawmakers have a new tool to use when considering education policy, members of the Interim Joint Education Committee were told in a Sept. 10 meeting.

According to Charles McGrew, Executive Director of the Kentucky P-20 Data Collaborative, the new data warehouse is an efficient and secure way to link information from early childhood through postsecondary education and beyond to provide a comprehensive picture of conditions in the state.

"We're here to help policy makers and administrators understand how things are going," he said.

The initiative is a partnership between the Kentucky Department of Education, Educational Professional Standards Board, Council on Postsecondary Education and Cabinet of Education and Workforce Development. It merges data from a variety of state and national sources.

Data from the repository can be used to evaluate policies, analyze educational systems, answer information requests and create reports, McGrew said.

The collaborative has connected high school and college data to employment information in an effort to track what happens to students after they leave educational institutions. That data was used to produce a profile on education, employment and earnings for every county and Area Development District in the state as well as a feedback report for every Kentucky high school, he said.

McGrew told lawmakers the collaborative was also able to link high school students' college readiness to their teachers and to the programs that prepared their teachers. A feedback report on teacher preparation will be released in the coming months, he said.

He is working to expand the repository to include even more data sources and longitudinal information.

"There are lots of connections that can be drawn to provide information out," he said.



## Coal, from page 1

fiscal projections indicating resources will be \$20.7 million less than the \$79.3 million in single county resources enacted by the 2012 Kentucky General Assembly.

As for multi-county project funds, Hicks said there is an estimated \$23.1 million available in fiscal year 2013 for those projects and around \$22 million obligated. "So we'll watch that very closely," he told lawmakers.

**Projected coal severance tax revenues for fiscal year 2013 are expected to be reduced by \$88.3 million due to a slowdown in Kentucky's coal markets.**

Lawmakers expressed concern about the difference between funding that was allocated for the projects and the new projections. Some asked state budget officials to explain why the official revenue estimates on which the 2013-2014 biennial budget was based were inaccurate.

"We want to answer the big question: How were the numbers so wrong?" said committee co-chair Sen. Brandon Smith, R-Hazard. "We thought we had this money coming in, and we didn't."

"We want you to help us navigate our way out of this," he said.

Greg Harkenrider with the State Budget Office said four of the past five years have logged "all-time records" for coal severance tax revenue in Kentucky.

But the revenue forecast logged in Dec. 2011 by the state's revenue forecasting panel, the Consensus Forecasting Group, for coal severance tax receipts did not hold after a strong first half of fiscal year 2012, he said.

"We knew that the long-term trend had to flatten," said Harkenrider.



Natural Resources and Environment Committee Co-Chair Rep. Jim Gooch, D-Providence, speaks to fellow lawmakers during the committee's Sept. 6 meeting.

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## Kentucky, U.S. agriculture doing better than expected

by Rebecca Hanchett  
*LRC Public Information*

You might not think that the U.S. would post near record net farm income this year given widespread drought and poor crop conditions, but think again.

The USDA is projecting that inflation-adjusted national net farm income for 2012 will reach its highest level in 42 years, according to the USDA Economic Research Service.

A rise in commodity prices, increasing indemnity payments, and less detrimental than expected effects from low crop yields are all

considered factors in the rise in net income, reports the USDA.

As for Kentucky, University of Kentucky Agriculture Economist Will Snell told the Interim Joint Committee on Agriculture at UK on Sept. 14 that the state's net farm income is typically \$1 billion a year, but that the Commonwealth will be "challenged" to continue meeting that figure as buyout and direct payments to farmers wind down.

Snell said the local food movement—which offers direct funding to farmers—and the strengthening of the dollar internationally, among other things, should help move the state forward.

As for agricultural cash receipts, Snell said Kentucky is not expected to reach a hoped-for \$5 billion in total receipts for 2012. But, he said, the Commonwealth should be over the \$4 billion mark "when it's all said and done."

"It won't be as bad as some have anticipated," Snell said.

According to the USDA, Kentucky has logged \$2.8 billion in agricultural cash receipts for the first seven months of this year. That is a slight increase from the first seven months of 2011, Snell said.

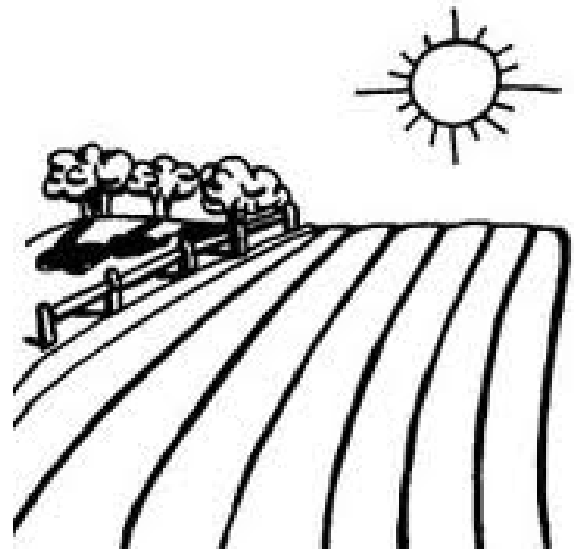
Kentucky's 2011 agriculture cash receipts totaled \$4.9 billion—less than the more than \$5 billion forecasted, Snell said.

UK will release its forecast for the state's 2012 agricultural cash receipts later this year.

In tobacco, Snell said timely rains have helped Kentucky farmers produce a pretty good crop. Burley production in the U.S. is expected to total 195 million pounds this year, according to recent USDA reports, with most of that being Kentucky burley. Kentucky's burley crop is estimated to reach 140.6 million pounds—about 10 percent more than last year, said Snell.

The committee also received a report from University of Kentucky President Eli Capilouto on the state of the university. Capilouto told lawmakers that UK not only has a record number of admission applications this semester, but that it has a record number of distinguished "Singletary" scholars and more than double the number of National Merit Finalists than last year.

UK has 71 National Merit Finalists this year, compared to 30 in 2011. That puts UK in the company of such well-respected universities as Duke, Cornell, Dartmouth, Ohio State, and Berkley, Capilouto said.





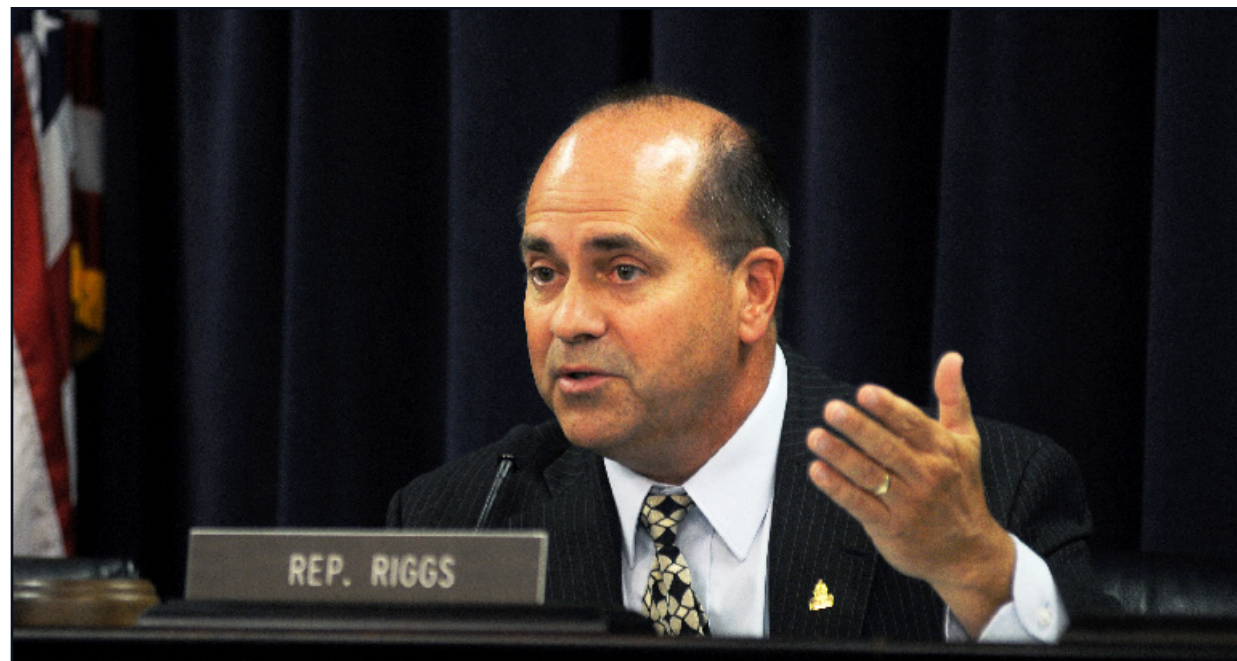
# New law making dent in tax filing burden, panel told

by Rebecca Hanchett  
*LRC Public Information*

Efforts are underway to create a standard occupational license tax form for Kentucky businesses and place current forms used by those businesses in one online location as mandated by the 2012 General Assembly, the Interim Joint Committee on Local Government heard in August.

House Bill 277, sponsored by Rep. Jody Richards, D-Bowling Green, and Interim Joint Committee on Local Government Co-Chair Rep. Steve Riggs, D-Louisville, mandates that a standard occupational license tax return form for use by all local taxing districts in Kentucky be in place by mid 2017. The form will replace dozens of forms currently used by local taxing districts across the state, according to Secretary of State Alison Lundergan Grimes, whose office is responsible for implementing HB 277.

Until the standard form is in use, Grimes said businesses will be able to find their taxing district's current occupational license tax forms on the Secretary of State's One Stop Business Portal. The Secretary of State's Office is asking that all local



Interim Joint Committee on Local Government Co-Chair Rep. Steve Riggs, D-Louisville, chairs the committee's August meeting in Frankfort.

taxing districts in Kentucky send in their current forms by Nov. 1, 2012, along with instructions, to be posted on the web portal at [onestop.ky.gov](http://onestop.ky.gov).

"We are getting tremendous feedback," Grimes said. "We are getting these forms into our office on a timely basis." She said she hopes to have received 100 percent of the forms from all taxing districts by January.

Creation of a standard form is now being worked out by the Secretary of State and several entities

including the Kentucky League of Cities, Kentucky Association of Counties, small business associations and Kentucky Society of CPAS, Grimes said.

Grimes said Kentucky has over 200 taxing jurisdictions, and that HB 277 will reduce the time businesses have to spend communicating with state government.

Riggs, who chaired Wednesday's meeting, said the need to address the occupational license tax form issue was raised by a fellow lawmaker who

pushed to get the issue addressed for more than a year. "That is how ideas are born: Just from practical living experience," Riggs said.

The One Stop Business Portal was created with the passage of 2011 Senate Bill 8, sponsored by Sen. David Givens, R-Greensburg, and Sen. John Schickel, R-Union. Today, Grimes said, Kentucky has over 10,000 businesses that have registered to operate in the Commonwealth using the web portal, which is now being streamlined.

## Adventure tourism opportunities abound, lawmakers told

by Rob Weber  
*LRC Public Information*

Efforts to boost adventure tourism in Kentucky will improve the physical and economic health of Kentuckians, state lawmakers were told during the Sept. 20 meeting of the General Assembly's Labor and Industry Committee.

Adventure tourism includes a range of outdoor activities, such as hiking, geocaching, canoeing, climbing trees, or anything else that makes you "exert a little energy in a natural environment," said Elaine Wilson, executive director of the Office of Adventure Tourism.

While Kentucky has a good amount of adventure tourism infrastructure and unbound natural beauty, there's potential for growth if the state makes sure the public knows what's available and has easy access to outdoor activities, Wilson said.

Updating Kentucky's trail inventory has been part of the effort to boost adventure tourism, Wilson said. By seeking information from counties and various agencies across the state, more than 8,000 miles worth of trails have been added to the state's trail listings in recent years, she said. Citizens can obtain brochures or go online to [www.getoutky.com](http://www.getoutky.com) to find information about where they can hike, go horseback riding, ride mountain bikes or engage in other trail activities. Information is also provided on a range of outdoor activities including tree climbing, scuba diving, all-terrain vehicle riding and skydiving.

Kentucky has made progress on expanding adventure tourism infrastructure in recent years, Wilson said. Seven new zip line businesses have been launched, horse camps have been added at state parks, trails have been lengthened and other

construction projects are boosting adventure tourism opportunities across the state.

One of the next big steps will be designating "Trail Towns" in Kentucky, Wilson said. To become a Trail Town, a city should provide a portal to a trail system and places where trail users can find services and supplies. Providing a welcoming atmosphere for adventure seekers and amenities like bike racks in front of business, as well as opportunities to share local culture and history with visitors, will also be features of Trail Towns.

"Becoming a Trail Town is a labor of love for a community," Wilson said. "This program will help Kentucky have some of the most sought-after adventure experiences in the country."

Rep. Jill York, R-Grayson, said the Trail Town program will help communities "connect the dots"

between all the parties that need to come together to boost adventure tourism. State tourism officials "are the wonderful connective tissue that's pulling it all together," York said. Adventure tourism "truly is an economic driver and an engine using what we already have in place."

Rep. Kim King, R-Harrodsburg, noted that it's not only permanent infrastructure that brings tourists looking for adventure to the state. It's also specialty events, like this summer's Warrior Dash in Marion County that drew competitors to an event billed as a "mud-crawling, fire-leaping" 5-kilometer run through an array of obstacles.

In addition to the economic impact, boosting adventure tourism opportunities will also improve the health of Kentuckians, said Shad Baker, a Letcher County Extension agent and avid hiker who has worked to develop the Pine Mountain Trail.



# 2013 REGULAR SESSION CALENDAR

## 2013 REGULAR SESSION CALENDAR (approved by LRC 9/5/12; clerical error corrected 9/5/12)

### JANUARY – PART I

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8 Part I Convenes (1)	9 (2)	10 (3)	11 (4)	12
13	14	15	16	17	18	19
20	21 Martin Luther King, Jr. Day	22	23	24	25	26
27	28	29	30	31		

Denotes break between Parts I and II. Bill drafts may be requested during this period for introduction when Part II convenes.

### FEBRUARY – PART II

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5 Part II Convenes (5)	6 (6)	7 (7)	8 Last day for new bill requests (8)	9
10	11 (9)	12 (10)	13 (11)	14 (12)	15 Last day for new Senate bills (13)	16
17	18 Presidents' Day HOLIDAY	19 Last day for new House bills (14)	20 (15)	21 (16)	22 (17)	23
24	25 (18)	26 (19)	27 (20)	28 (21)		

( ) Denotes Legislative Day

### MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
					(22)	
3	4 (23)	5 (24)	6 (25)	7 (26)	8 Convenes (27)	9
10	11 Convenes (28)	12 VETO	13 VETO	14 VETO	15 VETO	16 VETO
17	18 VETO	19 VETO	20 VETO	21 VETO	22 VETO	23
24	25 (29)	26 SINE DIE (30)	27	28	29	30
31						

( ) Denotes Legislative Day





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# Committee Meetings

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### LEGISLATIVE RESEARCH COMMISSION

Minutes of the 537th Meeting  
September 5, 2012

#### Call to Order and Roll Call

The 537th meeting of the Legislative Research Commission was held on Wednesday, September 5, 2012, at 1:30 PM, in Room 125 of the Capitol Annex. Senator David L. Williams, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator David L. Williams, Co-Chair; Representative Greg Stumbo, Co-Chair; Senators Carroll Gibson, Dan "Malano" Seum, Katie Stine, Robert Stivers II, and Johnny Ray Turner; Representatives Rocky Adkins, Larry Clark, Bob M. DeWeese, Danny Ford, and Tommy Thompson.

Guests: Geoff Mearns, President, Northern Kentucky University.

LRC Staff: Bobby Sherman and Christy Glass.

Senator Williams called the meeting to order, and the secretary called the roll. There being a quorum present, Senator Williams called for a motion to approve the minutes of June 28, 2012; accept and refer as indicated items A. through I. under Staff and Committee Reports; refer prefiled bills and administrative regulations as indicated and approve items C. through O. under New Business; and accept and refer as indicated items 1. through 30. under Communications. A motion was made by Representative Stumbo and seconded by Senator Stine. A roll call vote was taken, and the motion passed unanimously. The following items were approved, accepted, or referred:

The minutes of the June 28, 2012 meeting were approved.

#### Staff and Committee Reports

Information requests June 2012 through August 2012.

Committee Activity Reports for June, July, and August 2012.

Reports of the Administrative Regulation Review Subcommittee meetings of June 12, July 10, and August 14, 2012.

Committee review of administrative regulations by the Education Assessment and Accountability Review Subcommittee during its meetings of June 12 and August 14, 2012.

Committee review of administrative regulations by the Interim Joint Committee on Education during its meeting of July 13, 2012.

Committee review of administrative regulations by the Interim Joint Committee on Health and Welfare during its meeting of August 15, 2012.

Committee review of Executive Reorganization Order 2012-418 by the

Interim Joint Committee on Veterans, Military Affairs, and Public Protection during its meeting of July 12, 2012.

Committee review of Executive Reorganization Order 2012-419 by the Interim Joint Committee on Education during its meeting of August 13, 2012.

Committee review of Executive Reorganization Order 2012-561 by the Interim Joint Committee on Education during its meeting of August 13, 2012.

#### New Business

Referral of prefiled bills to the following committees: **BR 54** (relating to dogs) to **Agriculture**; **BR 65** (relating to legislative procedures for state fiscal measures), **BR 77** (relating to the angel investor tax credit), and **BR 88** (relating to sales and use tax holidays and declaring an emergency) to **Appropriations and Revenue**; **BR 68** (relating to school notification of persons authorized to contact or remove a child) to **Education**; **BR 55** (relating to medical marijuana) and **BR 66** (relating to foreign law) to **Judiciary**; **BR 40** (relating to the sale of alcoholic beverages on election days) and **BR 84** (relating to the sale of alcoholic beverages on election days) to **Licensing and Occupations**; **BR 45** (relating to fire protection services) to **Local Government**; and **BR 82** (relating to retirement) to **State Government**.

Referral of the administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6) and 158.6471(6): **302 KAR 16:091** (Rides and attractions not included in the definition of amusement ride or attraction) to **Agriculture**; **103 KAR 31:170 & E** (Disaster area relief sales and use tax refunds) to **Appropriations and Revenue**; **304 KAR 1:040** (Campgrounds) and **304 KAR 1:080** (Kentucky Proud™ Promotion Program) to **Economic Development and Tourism**; **16 KAR 2:120** (Emergency certification and out-of-field teaching); **703 KAR 5:070** (Procedures for the inclusion of special populations in the state-required assessment and accountability programs); and **703 KAR 5:225** (School and district accountability, recognition, support, and consequences) to **Education**; **201 KAR 2:340** (Special pharmacy permit for clinical practice); **201 KAR 22:040** (Procedure for renewal or reinstatement of a credential for a physical therapist or a physical therapist assistant); **201 KAR 22:045** (Continued competency requirements and procedures); and **910 KAR 1:190** (Nutrition program for older persons) to **Health and Welfare**; **501 KAR 6:130** (Western Kentucky Correctional Complex) and **501 KAR 6:140** (Bell County Forestry Camp) to **Judiciary**; **815 KAR 20:020** (Parts or materials list) and **815 KAR 20:191**

(Minimum fixture requirements) to **Labor and Industry**; **201 KAR 30:030** (Types of appraisers required in federally-related transactions; certification and licensure); **201 KAR 30:125** (Continuing education for appraisers); **201 KAR 30:180** (Distance education standards); **201 KAR 30:190** (Educational requirements for certification); and **815 KAR 35:060** (Licensing of electrical contractors, electricians, and master electricians pursuant to KRS 227A.060) to **Licensing and Occupations**; **405 KAR 10:011E** (Repeal of 405 KAR 10:010 and 405 KAR 10:020); **405 KAR 10:015 & E** (General bonding provisions); **405 KAR 10:030** (General requirements for liability insurance); and **405 KAR 16:020** (Contemporaneous reclamation) to **Natural Resources and Environment**; **502 KAR 10:120 & E** (Hazardous materials endorsement requirements) to **Transportation**.

From Senator Tom Jensen and Representative John Tilley, Co-Chairs of the Interim Joint Committee on Judiciary: Memorandum requesting approval to meet on November 19, rather than the regularly scheduled meeting date of November 2. There are three potential conflicts.

From Senator Julie Denton and Representative Tom Burch, Co-Chairs of the Interim Joint Committee on Health and Welfare: Memorandum requesting approval to meet on November 9, rather than the regularly scheduled meeting date of November 21. There are no apparent conflicts.

From Senator Jack Westwood and Representative Teddy Edmonds, Co-Chairs of the Education Assessment and Accountability Review Subcommittee: Memorandum requesting reappointment of members of the National Technical Advisory Panel on Assessment and Accountability (NTAPAA) and authorization to enter into a one-year personal services contract for each member.

From Senator Damon Thayer and Representative Mike Cherry, Co-Chairs of the Interim Joint Committee on State Government: Memorandum requesting approval to meet on September 27, rather than the regularly scheduled meeting date of September 26. There are no apparent conflicts.

From Senator Bob Leeper and Representative Rick Rand, Co-Chairs of the Interim Joint Committee on Appropriations and Revenue: Memorandum requesting approval to meet on November 29, rather than the regularly scheduled meeting date of November 22. There are no apparent conflicts.

From Senator Damon Thayer and Representative Steve Riggs, Co-Chairs of the Interim Joint Committee on Local



Government: Memorandum requesting approval to meet on September 27, rather than the regularly scheduled meeting date of September 26. There are no apparent conflicts.

From Senator Bob Leeper and Representative Rick Rand, Co-Chairs of the Interim Joint Committee on Appropriations and Revenue: Memorandum requesting approval to meet on September 26 in northern Kentucky, rather than the regularly scheduled meeting date of September 27. There are no apparent conflicts.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing Representative Keith Hall and Mr. Jerry Young to the Task Force on Middle School Interscholastic Athletics

From Senator Alice Forgy Kerr and Representative Rick Nelson, Co-Chairs, Interim Joint Committee on Labor and Industry: Memorandum requesting approval to meet on September 11 at Kentucky Dam Village in conjunction with the Kentucky Labor-Management Conference, rather than the regularly scheduled meeting date of September 13. There are two potential conflicts.

From Senator David Givens and Representative Tom McKee, Co-Chairs, Interim Joint Committee on Agriculture: Memorandum requesting authorization and the appointment of members to the Subcommittee on Rural Issues and the Subcommittee on Horse Farming of the Interim Joint Committee on Agriculture.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing Dan Volpe, ATC, to the Task Force on Middle School Interscholastic Athletics.

From Bobby Sherman: Memorandum requesting approval of the 2013 Regular Session Calendar.

From Bobby Sherman: Memorandum requesting approval of prefiling deadlines for the 2013 Regular Session.

**Communications**

From the Cabinet for Health and Family Services: SWIFT Adoption Teams Report for the fourth quarter of 2011.

From the Office of the Attorney General: Constitutional Challenge Reports for the months of May and June 2012.

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of June and July 2012:

From the Economic Development Finance Authority: Loan data sheets for each loan approved as of the quarter ending June 30, 2012.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs for the months of June and July 2012 and year-to-date activity for FY 2012.

From the Kentucky Personnel Cabinet: 2012 First Quarterly Turnover

Report.

From the Cabinet for Economic Development: Semi-Annual Report of Riverport Marketing Assistance Trust Fund for the period January 1 through June 30, 2012.

From the Kentucky Commission on the Deaf and Hard of Hearing: Telecommunications Access Program (TAP) Annual Report FY 2012.

From the Department of Education: 2012-2014 Biennial Plan for Validation Studies as required by KRS 158.6453(17).

From the Kentucky Assistive Technology Loan Corporation: 2011 Annual Report.

From the Cabinet for Health and Family Services: FY 2011 Kentucky Colon Cancer Screening Advisory Committee Annual Report.

From the Department of Parks: House Bill 166 Annual Report.

From the Kentucky Council on Postsecondary Education: Senate Bill 1 (2009) PD Development, Institutional and Entity Plans Report Summary.

From the Auditor of Public Accounts: Report of the Audit of the Eastern Kentucky Exposition Center Corporation, FY 2011.

From the Auditor of Public Accounts: Report of the Audit of the Foundation for a Healthy Kentucky, Inc., 2011.

From the Cabinet for Health and Family Services: FY 2012 Summary of Non-Compliance Findings Assisted Living Community Certification Reviews.

From the Education and Workforce Development Cabinet: Unemployment Insurance Report.

From the Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, Quarter Ending June 30, 2012.

From the Personnel Cabinet: 2012 Second Quarter Statewide Turnover Report.

From the University of Kentucky, Kentucky Tobacco Research & Development Center: Quarterly Report for the period April 1 through June 30, 2012.

From the Kentucky Judicial Form Retirement System: Operating Statements of the Judicial Retirement Fund and the Legislators Retirement Fund for FY 2011; List of investments held by the Fund as of June 30, 2012; and Portfolio Valuations of the Fund as of June 30, 2012.

From the Kentucky Commission on Small Business Advocacy: 2011-2012 Annual Report.

From the Energy and Environment Cabinet, Division of Waste Management: 2011-2012 Report on Expenditures and Revenues of the Hazardous Waste Management Fund.

From the Auditor of Public Accounts: FY 2011 Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education.

From Kentucky Employers' Mutual Insurance Authority: Quarterly Statement for the period ending June 30, 2012.

From Kentucky Employers' Mutual Insurance Authority: Statements indicating financial status for the period ending June 30, 2012.

From the Cabinet for Health and Family Services: SWIFT Adoption Teams Report for the first quarter of 2012.

From Department of Military Affairs, Office of Adjutant General: FY 2012 Annual Report of Military Family Assistance Trust Fund Board.

From the Cabinet for Health and Family Services, Office of the Secretary: Child Abuse and Neglect 2012 Annual Report of Fatalities and Near Fatalities.

From the Tourism, Arts, and Heritage Cabinet: FY 2012 1% Transient Room (Lodging) Tax Progress Report.

**Adjournment**

There being no further business, the meeting was thereby adjourned at 1:50 p.m.

**INTERIM JOINT COMMITTEE ON AGRICULTURE**

Minutes of the 3rd Meeting of the 2012 Interim August 23, 2012

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Agriculture was held on Thursday, August 23, 2012, at 10:00 AM, in the VIP Room, Kentucky State Fair Exposition Center, Louisville, Kentucky. Representative Tom McKee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator David Givens, Co-Chair; Representative Tom McKee, Co-Chair; Senators Joe Bowen, Paul Hornback, Vernie McGaha, Dennis Parrett, Joey Pendleton, Dorsey Ridley, Damon Thayer, and Robin L. Webb; Representatives Royce W. Adams, , John "Bam" Carney, Mike Cherry, Jim DeCesare, Mike Denham, Myron Dossett, C.B. Embry Jr., Sara Beth Gregory, Kim King, Martha Jane King, Michael Meredith, Brad Montell, Sannie Overly, Ryan Quarles, Tom Riner, Bart Rowland, Steven Rudy, Rita Smart, and Wilson Stone.

Guests: Harold Workman, President and CEO, Kentucky State Fair and Exposition Center; Ronald Carmicle, Chairman, Kentucky State Fair Board; Mayor Greg Fischer, Louisville, Kentucky; Tim Capps, Director, Equine Program, University of Louisville, College of Business, and members of the Kentucky State Fair Board.

LRC Staff: Lowell Atchley, Stefan Kasacavage, Kelly Ludwig, and Susan Spoonamore, Committee Assistant.

The June 13, 2012, and July 11, 2012, minutes were approved by voice vote, without objection, upon motion made by Senator McGaha and second by Representative Stone.

**Report of the Kentucky State Fair Board**

Mr. Ron Carmicle discussed the

potential of the Six Flags Amusement Park being reopened and said that the Board is working with the Governor to advance the process. He said that the closure of the Park created financial stress. He also talked about the Future Farmers of America (FFA) Convention returning to Louisville along with other events that will result in significant economic benefits to Louisville.

Mr. Harold Workman explained that the State Fair actually runs three weeks instead of two weeks. The Quarter Horse Show must be completed the week before the official opening because of limited space and time slots. He stressed the need to keep all of the facilities in good shape in order to draw trade shows and other events. The downtown Louisville Convention Center will need to be renovated and/or expanded.

**Louisville Health Hometown and Farm to Table Programs**

Louisville Mayor Greg Fischer explained the Healthy Hometown Movement and a Food-to-Table Program promoting homegrown food products. The program encourages people to eat nutritious food and helps to eliminate food deserts in the poorest neighborhoods. The program also helps to promote Louisville's top ranked restaurants, chefs and other food industries. In addition, Mayor Fischer stated that the city's plan to study the local demand for specific foods should help to identify which products are needed. The study will be beneficial toward blending the urban and rural communities. Mayor Fischer said he would like to see an increase in the number of hot house and greenhouses and the development of a processing center to convert apples into applesauce and tomatoes into tomato paste.

In response to questions from legislators, Mayor Fischer stated that the next level would be year-round production depending on the information gathered from the study. He also said that Jefferson County Public Schools is a strong partner within the program.

**Equine Industry Program, University of Louisville, College of Business**

Mr. Tim Capps, Director, stated that the Equine Program is in its 25<sup>th</sup> year and that it is the only equine program in America to be housed in a College of Business. He said it is important for students to acquire a business major to be successful in the equine industry. The College has graduated over 300 students with most being women. UK and UofL have a strong working relationship.

In response to Representative Denham, Mr. Capps said that no students have been interested in Saddlebreds.

In response to Senator Webb, Mr. Capps stated that the program is a member of the Kentucky Horse Council.

The meeting adjourned.



## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 3rd Meeting  
of the 2012 Interim  
August 23, 2012

### Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 23, 2012, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Rick Rand, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Rick Rand, Co-Chair; Senators Walter Blevins Jr., Joe Bowen, Tom Buford, Jared Carpenter, Denise Harper Angel, Jimmy Higdon, Paul Hornback, Gerald A. Neal, R.J. Palmer II, Joey Pendleton, Brandon Smith, Jack Westwood, and Mike Wilson; Representatives Royce W. Adams, John A. Arnold Jr., John “Bam” Carney, Ron Crimm, Mike Denham, Bob M. DeWeese, Danny Ford, Derrick Graham, Jimmie Lee, Reginald Meeks, Marie Rader, Sal Santoro, Arnold Simpson, Jim Stewart III, Tommy Turner, Jim Wayne, and Brent Yonts.

Guests: John Nicholson, Executive Director, Kentucky Horse Park; Secretary Joe Meyer, Education and Workforce Development Cabinet.

LRC Staff: Pam Thomas, John Scott, Charlotte Quarles, Eric Kennedy, Jennifer Hays, and Sheri Mahan

Representative Yonts moved for the approval of the minutes as written. The motion was seconded by Representative Simpson. The motion carried by voice vote.

### Kentucky Horse Park business plan

Mr. John Nicholson, Executive Director of the Kentucky Horse Park, presented the Horse Park’s business plan to the committee, which the legislature mandated during the last Regular Session. He discussed the primary revenue generators for the park, which include equine events, attendance at the equine theme park, campground use, National Horse Center events, and food service sales. In 2012, there will be 87 major equine events held at the park, generating \$2.8 million in revenues. He discussed the economic impact of the park, stating that during the 2010 – 2012 biennium the park had contributed \$49.7 million in tax revenues to the General Fund.

Mr. Nicholson discussed the governance structure for the Horse Park, which is shared by the Kentucky Horse Park Commission, the Kentucky Horse Park Foundation, and the Tourism, Arts and Heritage Cabinet. He also discussed the human resources structure, stating that there are currently 72 full-time employees. Temporary labor is used primarily in the food service area, and inmates from

the Blackburn Correctional Complex facilitate trash pickup, stall cleaning and landscaping. The park has an active volunteer program, with 160 volunteers donating 11,000 hours of work time to the park during 2011.

Mr. Nicholson discussed the park’s future revenue and expenditure strategy. He anticipates growth in revenues of \$345,000 in FY 13 and \$593,000 in FY 14. This growth is expected to derive from increases in sponsorships, park visitation, fees, food service sales, and equine events at the park. Also, expenditure efficiencies will enhance the revenue growth over the biennium.

Mr. Nicholson outlined the three critical components to the business plan which will allow the Kentucky Horse Park to be self sustaining over the long term. These components are expansion of the park campgrounds, construction of a hotel on premises, and additional local support.

In response to questions from Chairman Rand, Mr. Nicholson stated that the cash balance in May and June 2012 was much better than projected revenues. He stated that litigation regarding the cancellation of the contract to build a hotel on the premises is now in the Kentucky Court of Appeals. He also said that there is continued interest in building a hotel on the park grounds.

In response to questions from Representative Simpson, Mr. Nicholson replied that the park is licensed to sell liquor, beer and wine in its facilities. Revenues from those sales are included in general agency receipts. Mr. Nicholson stated the equine events are the primary revenue generator, and the tourism aspects of the park support its ability to attract the equine events to the facility.

In response to a question from Senator Bowen, Mr. Nicholson stated that the horse park foundation has few unrestricted funds available for use, but the foundation has funded several major construction projects for the park.

### Update regarding Kentucky’s unemployment insurance program and trust fund

Secretary Joe Meyer of the Education and Workforce Development Cabinet updated the committee regarding Kentucky’s unemployment insurance program and trust fund. He stated that Kentucky’s unemployment rate is currently 8.3 percent, which is at the national average. Kentucky has steadily added jobs since 2010, and the growth rate is increasing.

Secretary Meyer discussed the Unemployment Insurance Administration Fund loan which the General Assembly authorized during the 2012 Regular Session. The loan has been obtained from J.P. Morgan Chase in an amount up to \$76 million at a 1.95 percent fixed interest rate. These funds will be obtained in two draws, with the first taken in June, 2012. The second infusion of funds will happen in September of 2013. A dedicated state surcharge, imposed by 2012 RS HB 495, will provide the funds necessary to repay

the loan. The maturity date for repayment of this loan is September 1, 2018.

Secretary Meyer discussed the impact the economy has had on the trust fund. Prior to the recession, the trust fund paid \$423.9 million in benefits in 2007, and payments reached a high in 2009 of \$1,071.4 million. Payments have since decreased, and were at \$553.3 million for 2011. The trust fund is intended to carry a significant balance to make payments when there is an economic downturn. In 2000, the trust fund had \$700 million in reserve. However due to decreases in taxes and increases in benefit payments, the trust fund reached \$70 million at the end of 2008. The trust fund was required to borrow funds from the federal government to meet payments. On January 1, 2011, the trust fund owed the federal government \$948.7 million. The projected year-end balance for 2012 is \$915 million and \$768.8 million for 2013. It is expected that the trust fund will have the loan paid off by 2017 and operating at that time with surplus funds.

Secretary Meyer outlined current operations for unemployment insurance, stating that initial claims have fallen to 33,716, from a high in January of 2009 of 61,438. There are currently 81,690 recipients of benefits, which is down from the January 2010 high of 157,162. The total federal benefits paid to Kentucky recipients from January 2009 through July 2012 has been \$3,026 million. This amount is in addition to Kentucky unemployment insurance benefits paid to recipients.

Secretary Meyer discussed unemployment insurance operational changes implemented by 2010 SS HB 5. These changes include a taxable wage base increase, imposition of a waiting week for initial receipt of benefits, lowering of the wage replacement rate, freezing of the maximum wage replacement rate, and tax rate schedule trigger adjustment. Additional operational changes have been made including direct deposit, state income tax withholding, technology changes, and customer service improvement initiatives.

Being no further business, the meeting was adjourned at 2:55 p.m. All meeting materials and a cassette tape of the meeting in full are available in the Legislative Research Commission Library.

## INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 3rd Meeting  
of the 2012 Interim  
August 13, 2012

### Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Education was held on Monday, August 13, 2012, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Ken Winters, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ken Winters, Co-Chair; Representative Carl Rollins

II, Co-Chair; Senators Walter Blevins Jr., Jared Carpenter, David Givens, Denise Harper Angel, Jimmy Higdon, Vernie McGaha, R.J. Palmer II, Johnny Ray Turner, Jack Westwood, and Mike Wilson; Representatives Linda Belcher, Regina Petrey Bunch, John “Bam” Carney, Hubert Collins, Leslie Combs, Jim DeCesare, Ted Edmonds, C.B. Embry Jr., Bill Farmer, Kelly Flood, Derrick Graham, Reginald Meeks, Charles Miller, Ruth Ann Palumbo, Ryan Quarles, Marie Rader, Jody Richards, Tom Riner, Bart Rowland, Rita Smart, Wilson Stone, Ben Waide, Addia Wuchner, and Jill York.

Guests: Sue Cain, Council on Postsecondary Education, Erin Klarer, Kentucky Higher Education Assistance Authority, Wayne Young, Kentucky Association of School Administrators, and Priscilla Black, House Majority Whip.

LRC Staff: Kenneth Warlick, Jo Carole Ellis, Ben Boggs, Janet Stevens, Lisa W. Moore, and Daniel Clark.

### Approval of the July 13, 2012, Minutes

Representative Carney moved to approve the minutes of the July 13, 2012, meeting and Representative Stone seconded the motion. Motion carried.

### Reports of the Subcommittee Meetings

#### Subcommittee on Postsecondary Education

Representative Meeks reported that the Subcommittee on Postsecondary Education heard presentations about the efforts to improve student college readiness and reports on enrollment of low income, rural, and minority students in Kentucky’s medical schools.

Bob King, President, Council of Postsecondary Education, provided data on college readiness, benchmarks, and Kentucky college readiness gaps. Dr. King discussed the requirements and goals of SB 1 in 2009 and the partnerships that have been forged as a result of the bill. Dr. King said K-12, post secondary education, adult education, the Governor, and the Legislature are working together in a unique, important, and beneficial partnership that is not commonly seen around the country.

The University of Louisville medical school staff discussed their enrollment demographics, and explained pipeline programs designed to encourage minority enrolment. They said they are losing minority students because it can only offer 60 percent tuition scholarships.

The University of Kentucky medical school staff reported that approximately 55 percent of their medical school students are from the Appalachian and rural areas, and only five percent are African American. Dr. Emery Wilson, M.D., Dean Emeritus, stated Kentucky needs 2,200 more doctors by the year 2025, and 40 percent of the population in Kentucky lives in rural areas, and only 28 percent of Kentucky doctors serve in those areas.

The University of Pikeville reported increasing its class size from 80 to



130 medical students. The majority of Pikeville grads provide primary care in Kentucky and thirty percent serve within 60 miles of Pikeville. Dr. Boyd R. Buser, D.O., FACOFP, Vice President for Health Affairs and Dean Kentucky College of Osteopathic Medicine, explained the difference between primary and specialty care income.

#### **Subcommittee on Elementary and Secondary Education**

Representative Edmonds reported that the Subcommittee on Elementary and Secondary Education heard discussions on the educational well-being of children in foster care. Kentucky law allows a foster child or children adopted from the foster care system to receive a tuition waiver at any Kentucky postsecondary education institution. A handout was provided by the Council on Postsecondary Education that showed in 2002 and 2003, 391 foster or adopted youth were participating in the waiver program. By 2010 and 2011, the number of foster youths participating had grown to 1,784.

James Grace, Assistant Director, Division of Protection and Permanency, Cabinet for Health and Family Services, provided data on foster care children in Kentucky. Mr. Grace explained that the Cabinet coordinates with local education agencies to measure and monitor the movement of youth between foster placements. He mentioned that a statewide plan is being developed to enhance education stability and other well-being outcomes for Kentucky's foster youths.

Denise Wilder, Policy Analyst, Out of Home Care Branch, explained that the "Where the Heart Is" program trains educators in how to listen to and understand foster youths. The program's goal is to make foster youths feel comfortable enough to talk to adults to relieve pressures they are experiencing.

Jennie Wilson, Out of Home Care Branch, explained the education voucher program. The program provides additional funds for foster children up to the age of 23 to continue their education at a postsecondary education institution or in a job training program.

Patrick Yewell, Executive Officer, Department of Family and Juvenile Justice Services, Administrative Office of the Courts, discussed a real life perspective of Kentucky's foster care system. Mr. Yewell, who is one of nine children, spent his childhood years in foster care. He and one of his sisters were eventually adopted into the same family. He explained the problems he experienced as a foster kid in school.

#### **Gatton Academy**

Senator Wilson honored the Gatton Academy with a citation. Tim Gott, Director, Gatton Academy, indicated Gatton Academy is a finalist for the Intel Schools of Distinction. He noted the winner of this award will be announced on September 10, 2012. Mr. Gott also mentioned that Gatton Academy was chosen by Newsweek and The Daily Beast

as one of America's best high schools in 2012.

Mr. Gott mentioned that Gatton Academy has enrolled students from 107 different counties over the last five years. He said they are about to start their sixth year with 126 students. Mr. Gott said they are very excited about their high test scores but acknowledged that scores should be high because they are selecting some of the brightest students across the state. He said the student's curriculum consists of chemistry, biology, physics, math, and computer science. Mr. Gott stated that many of the students are pursuing research opportunities. He said at least 75 percent of the graduates will do one to two semesters of research with one of the curriculum areas.

Mr. Gott explained that Gatton Academy is a national and international entity. He said the students are competing and collaborating with other students from across the world. He mentioned that the study abroad aspect has grown and almost every semester students at Gatton Academy have had a chance to travel abroad. He said they have sent students to Europe, China, Africa, and South America. Mr. Gott stated that he and 29 students from the Gatton Academy just got back from England and the Olympics.

Mr. Gott noted that 71 percent of students who graduate from Gatton Academy stay in Kentucky to attend college. Mr. Gott said ultimately it is all about the student's success. He said he enjoys seeing students rise to levels of excellence that they might not have been able to do at another high school.

Kesi Neblett, Gatton Academy senior, Russellville, Kentucky, discussed her experiences at the Gatton Academy. She said one of the most significant things for her at the Gatton Academy is the atmosphere. Ms. Neblett said she is surrounded by students with whom she can connect intellectually and emotionally. She noted that it is very important to have people around her that she can talk to and can understand her when she is stressing about a class, or stressing about friend. Ms. Neblett also said she loves all of the opportunities that she is surrounded with at the Gatton Academy.

Sam Brown, Gatton Alumni and medical student at the University of Kentucky, discussed his experiences as a former student of Gatton Academy. He stated that Gatton academy provided him a place to thrive in a manner unavailable at a typical high school. He said the environment at Gatton Academy helps produce constructive and synergistic cooperation between students. He said the environment of placing intelligent and ambitious kids together can work wonders for producing successful people.

Dr. Julia Roberts, Executive Director, The Center for Gifted Studies, stated that Gatton Academy is an extension of every high school in the Commonwealth. She said the students stay enrolled in their local high schools and their test scores, and

honors are tracked back to their local high schools. Dr. Roberts stated that Gatton Academy takes nothing away from schools in the Legislators' districts. She said the school provides more opportunities for young people. She noted Kentucky is one of fifteen states to have a state residential school with a focus on math and science that is supported by the state. Dr. Roberts said the goal for the future is to expand the Gatton Academy.

Responding to Representative Stone's question regarding the expansion of Gatton Academy's curriculum, Dr. Roberts said the focus will still remain strongly with math and science.

Responding to Senator Givens' question regarding career matriculation specific to geographic region, Dr. Roberts said that Kentucky's Gatton Academy doesn't have the history to show the data yet but Texas does. She said data in Texas shows that the graduates that are going away are coming back to the state for their adult lives in a much larger percentage than was anticipated and she hopes for the same trend in Kentucky.

Chairman Winters stated how proud he was of the Gatton Academy for all of the success that it has had.

#### **Gifted Education**

Lynette Baldwin, Kentucky Association for Gifted Education, discussed funding for gifted education. She said funding for gifted education has remained flat for two decades. She said the first funding for gifted education was in the 1978-1979 school year in the form of block grants. The following year statewide funding was provided at \$1,118,600. Ms. Baldwin stated at that time it was left up to each school district to identify students who were gifted. She said in the year 2000, gifted education became part of KERA and funding was at its highest point with \$7,406,000. Ms. Baldwin stated that the funding for gifted education has been dropping ever since 2000.

Walter Hulett, Superintendent, Knox County Schools, mentioned that he has to represent southeastern Kentucky where the population is decreasing because industry has left. He said that makes it more challenging for them to have partnerships so that the students have an opportunity to grow. He said there are a lot of kids in his district that need the kind of exposure, opportunity and curriculum gifted education provides.

Keith Davis, Superintendent, Bullitt County Schools, said Bullitt County receives about \$67,000 in a state gifted grant and Bullitt County spends approximately \$370,000 in addition on their gifted programs. He said Bullitt County's gifted program is not sufficient to meet the needs of all of the students. He stated that two years ago Bullitt County started an advanced math and science program which is serving 60 students. Mr. Davis said gifted education needs to be a priority.

Dr. Julia Roberts, Executive Director, The Center for Gifted Studies, said there

are unintended barriers and policies in each district that can keep kids from learning at higher levels. She said the achievement gap groups are not achieving at advanced levels. Dr. Roberts mentioned the TELL survey given across the state to teachers. Over half of the teachers said that they need more professional development on teaching gifted and talented children, special education children, and on differentiating the curriculum to meet the wide range of learners.

Chairman Winters stated that there is urgency and a concern about gifted education.

#### **Advance Kentucky**

Joanne Lang, Executive Director, Advance Kentucky, discussed annual trends relating to Advance Kentucky performance. Ms. Lang said that Advance Kentucky could not do some of the things they do without the sponsorship they have. She stated the Kentucky Department of Education (KDE) has become an aggressive sponsor. Although resources from KDE are increasing, it is not enough to sustain the effort. Ms. Lang said Berea College has become a new sponsor including Advance Kentucky in four federal grants the college has received. She said the Council on Postsecondary Education (CPE) has also become a sponsor.

Ms. Lang said Advance Kentucky is an open enrollment initiative. She stated that Advance Kentucky's model and curriculum is based on advanced placement college level courses taught to high school students. She said if the students earn a qualifying score on a five point scale of a three, four, or five, they can qualify to earn college credit. Ms. Lang said Advance Kentucky provides training and support to teachers.

Dale Fleury, National Math and Science Initiative (NMSI), Regional Director, thanked the General Assembly and KDE for supporting the initiative. The Advanced program has been able to expand into 15 states and over 400 schools. Advance Kentucky is in the fifth year of the NMSI grant and it ends after this year. Mr. Fleury said they are working closely with Advance Kentucky in consideration of a post grant arrangement. However, additional NMSI funding would be less than Advance Kentucky has received the past five years.

Ms. Lang said understanding and embracing open enrollment as a deliberate strategy doesn't mean every student has to take AP classes. She said that any student that wants to take AP classes can as long as the student can show some kind of measure of capacity. Ms. Lang said if payment of exam fees is discontinued for students in Kentucky, thousands of students will not be able to take the AP exams.

Stephanie Carter, AP English Teacher, Lone Oak High School, said when she started teaching at her school the school didn't offer AP Language and Composition. She said currently there are 113 students out of 200 students in the



student body taking AP Language and Composition. She said Advance Kentucky is a barrier buster. Ms. Carter stated that students are chomping at the bit to try to get into these AP classes and see what they can do. She said results from the AP language tests shows 59 students out of 200 performing at a college level right now as juniors in high school.

Tami Herrell, AP Chemistry Teacher, North Laurel High School, said she has been teaching for 27 years and Advance Kentucky is the best program with which she has been involved. She said the teachers are trained during the summer through the AP institutes, and they have two additional trainings during the fall. Ms. Herrell said North Laurel High School had 37 passing scores in the first year of participation in Advance Kentucky and 98 passing scores this year.

In response to Representative DeCesare's questions, Ms. Lang said that open enrollment is the driver for their model. She stated that there are a growing number of students wanting to take AP classes and there is extra time on task provided for the AP students. Ms. Lang mentioned that AP students get 18 more hours of content and review time than students in the traditional classroom model. She stated that the AP model is a business model. Ms. Herrell said she thinks the students have greater success in other classes because of taking AP classes. Ms. Carter said student success in one AP class can carry over to other AP classes.

In response to Representative Quarles' question regarding students not taking as many AP classes because they are trying to protect their GPA, Ms. Lang said they do see some students shy away from AP classes because they are trying to keep their GPA up. Mr. Floury said that states with longitudinal studies are able to track first year and second year GPA's and success in earning credits. He also said in terms of college credits earned, college graduation rates, and GPA's, the AP students are performing higher than non-AP students.

In response to Representative Miller's question regarding students who get discouraged in AP classes and want to switch back to the regular classes, Ms. Herrell said they work with students if they have problems and can't succeed. Ms. Lang said they try to find why that student wants to drop out of an AP class. She said they consider whether students need more tutoring or whether they don't want to do the extra work. Ms. Lang stated that they look at each situation on a case by case basis and defer to the school for the decision. Mr. Fleury said sometimes a school might set up some barriers that they may not even realize are barriers. For example a pre-requisite of a particular grade for admission to an AP course. Mr. Fleury said schools need to examine whether their pre-requisites are reasonable.

#### **End-of-Course Testing**

Ginger Hopkins, Vice President, ACT

Educational Services, said ACT has been partnering with the General Assembly since 1959 and Kentucky was one of the 16 original ACT clients. Ms. Hopkins said Kentucky is making progress with end-of-course testing, and over 70,000 students took the ACT this year in Kentucky. She stated that 5,000 more students took the test this year compared to last year.

Ms. Hopkins discussed the competency assessment that is used by the colleges and universities for placement of freshman students. She said useful information will be forthcoming about whether Kentucky students are college ready and what courses they are college ready for. Ms. Hopkins stated that KDE introduced end-of-course assessments into the high schools in 2010.

Ms. Hopkins explained the professional development that has been going on in Kentucky as a result of the decision the Kentucky Board of Education to use end-of-course assessments in Kentucky.

Sarah Clough, Science Assessment Expert, ACT, said to understand the end-of-course assessment fully one has to understand the research base and the data behind the research. She said ACT staff understand what students should know and be able to do and use scores to predict college success. Ms. Clough said another piece of evidence and research ACT used is the National Curriculum Survey conducted every three years. Ms. Clough said the Encore for Success Study is the final piece of research for the end-of-course assessment. Ms. Clough said using the assessments can provide students information about how well they are doing with respect to the learning outcomes.

Responding to Representative Waide's comments regarding evolution being taught as a scientific fact, Ms. Clough said ACT supports the work of postsecondary science educators in developing the proposed Next Generation Science Standards.

Senator Wilson stated his concern that students are being indoctrinated into one way of thinking without allowing them to have intellectual freedom. He prefers for students to practice critical thinking skills and to look at evidence that is scientific.

Responding to Senator Givens' questions regarding the end-of-course assessment and whether the state can influence the questions on the end-of-course assessment, Ms. Hopkins said there are custom solutions available if desired. She said ACT is interested in helping the Legislature meet the needs of constituents and students in the state of Kentucky. Ms. Hopkins also stated that she would welcome the opportunity to explore those options further.

In response to Chairman Winter's questions and comments regarding what research base ACT used regarding inclusion of the theory of evolution in the science standards, Ms. Clough said the science standards came from the Encore

for Success study where ACT looked at classrooms that were producing college and career ready students.

Representative Rollins' stated that he believes evolution is a scientific theory. He said it's good to let students have academic independence to make up their own mind and to think creatively. He said social constructs don't belong in a science class. Representative Rollins' stated that evolution should be studied as a theory in science classes.

In response to Senator McGaha's comments and a question regarding the cost of the end-of course exam, Ms. Hopkins said ACT has not had conversations with KDE about building a custom test. She said ACT has had conversations with KDE about the issues of evolution and creation. Ken Draut, Associate Commissioner, Assessment and Accountability, Kentucky Department of Education, said the contract for end-of-course assessment this year was 5.2 million dollars, and the money is a combination of state and federal money.

Responding to Senator Givens' question regarding specific conversations between ACT and the commissioner of KDE on the topic of evolution, Ms. Hopkins said she only had a brief conversation with the commissioner today. Mary Hendrix, ACT, said she has had conversations with the commissioners' designated representatives in terms of the issue of evolution in general, and the issue of college readiness that involves critical thinking.

Chairman Winters stated that a number of teachers reported to him that in order for a student to succeed in a biology class evolution must be taught as a fact, not theory. He stated that the legislator and KDE need to evaluate the science standards on evolution. Terry Holliday, Commissioner, Department of Education said that KDE staff believes that evolution should be taught as scientific theory not as a fact.

#### **Executive Order 2012-419**

No action taken.

#### **Executive Order 2012-561**

No action taken.

With no further business before the committee, the meeting adjourned at 3:40 p.m.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

Subcommittee on Elementary and Secondary Education  
Minutes of the 2nd Meeting  
of the 2012 Interim  
August 13, 2012

#### **Call to Order and Roll Call**

The 2nd meeting of the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Tuesday, August 13, 2012, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Ted Edmonds, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Ted Edmonds, Co-Chair; Senators David Givens, Denise Harper Angel, Jack Westwood, and Ken Winters; Representatives Linda Belcher, Regina Petrey Bunch, John "Bam" Carney, Hubert Collins, Derrick Graham, Marie Rader, Bart Rowland, Wilson Stone.

Guests: Clyde Caudill, Jefferson County Public Schools and Kathy Adams, Children's Alliance.

LRC Staff: Janet Stevens, Ben Boggs, Kenneth Warlick, and Daniel Clark.

## **Educational Well-Being of Children in Foster Care**

Jim Grace, Assistant Director, Division of Protection and Permanency, Cabinet for Health and Family Services, discussed the different issues relating to the educational needs of children in foster care. Mr. Grace said that there are barriers to providing the appropriate educational well-being supports for children in foster care. Many of foster youth have been traumatized and are not prepared to deal with an educational setting at times because of the behavioral and psychological issues they have at that moment. Mr. Grace stated that there are many challenges in supporting these children.

Mr. Grace said that Kentucky has over 6,900 children in the custody of the Cabinet for Health and Family Services. These children have been abused or neglected by their parents, and the Cabinet has taken custody through the court to try to provide safety and permanency for them. Several years ago the federal government created child and family services reviews to be completed for each state, and Kentucky has been through two of them. The reviews examine different outcomes for safety, permanency, and wellbeing. Educational wellbeing is specifically reviewed.

Mr. Grace stated that in Kentucky's challenges deal with resources that are geographically available for children who need to be placed away from their home. He feels confident that the Cabinet has a thorough array of services for children but knows there are some places where additional resources are needed to support foster children. Those services have a large impact on educational stability because not all foster children will get to stay in their home county. This could cause a potential disruption for that child relating to their educational stability. The Cabinet works with the court system and education agencies to make it as stable as possible for any child coming into foster care.

Mr. Grace said it is very important to look at the case planning the staff does for children and their families, including very specific provisions relating to the educational needs for children. Staff measure and monitor how children are moving back and forth in school systems and make sure credits are transferring appropriately and records are shared appropriately and timely. These are



expectations of new federal legislation.

Mr. Grace said last year the Cabinet was able to send some child welfare representatives, court representatives, and Department of Education representatives to a conference in Washington, D.C. for structural guidance on how to create and maintain expectations relating to fostering connections. The purpose of the meeting was to encourage participation and enhance existing cross-system efforts to address the educational stability of the children in foster care.

Mr. Grace stated that recent National Resource Center for Permanency and Family Connections studies deal with the issues of barriers and challenges of children who are in child welfare programs and need educational stability. There was a specific educational stability study that looked at all the legal mandates that can inadvertently cause challenges for the Cabinet. The center looked at child welfare agencies to make sure they have policies in place and are following the policies in practice, which are two distinct and important pieces in their work. The study looked at the proximity and appropriateness of the educational setting when the Cabinet is making decisions about foster care placements. This had not been the Cabinet's initial consideration previously. In the past, the Cabinet had to find what placements were available for a child regardless of the educational setting. The Cabinet tries to keep the children in the same school if possible and develop education plans, case plans, and transition planning. The biggest challenges and issues in keeping a child in the same school are locating an appropriate and safe foster care placement and transportation.

Mr. Grace discussed Kentucky's specific action plan relating to the conference and stated some of the short-term goals that deal with the plan. The first short-term goal is to develop a compliance protocol for foster children to ensure seamless, timely transition between schools and districts. The second short-term goal is to partner with the Kentucky Educational Collaboration for State Agency Children (KECSAC) to further develop and expand the "Where the Heart Is" program.

Denise Wilder, Policy Analyst, Out of Home Care Branch, said "Where the Heart Is" was developed in 2007 as part of a research study with KECSAC, Eastern Kentucky University, the Department of Education, and the Department of Occupational Therapy. "Where the Heart Is" has developed a logo for children to recognize in schools so the children will know there is a caring individual in the school. This person will help them answer questions about their school, help them get their credits and records transferred, and help them with any peer and behavioral problems they face in the school.

Mr. Grace stated there are specific requirements in the Cabinet's policy related to educational needs for children. The Cabinet staff tries to work with school

personnel and foster parents to ensure that the child can remain in the same school setting. The Cabinet tries to make sure that the child is enrolled within three working days of the child's placement so there is not a long break when the child is not in school. The Cabinet also wants to make sure that the child is eligible for and pursuing a GED if not in the school system, or that an alternate education plan has been recommended by the child's home school and approved by the court.

Mr. Grace said the Cabinet has very specific provisions for children under age five. Staff will make referrals to Early Start or other different programs for a child to make sure that the needs are being met. Developmental screenings are completed within 30 days. An educational assessment is completed and submitted to the court within 60 days.

Jennie Wilson, Out of Home Care Branch, spoke about tuition waivers and the categories of youth that are eligible for these waivers. Kentucky has an opportunity for youth who were adopted or in foster care to receive a waiver of their educational fees for college. Her particular branch is responsible for determining eligibility for those waivers.

Mr. Grace said youth are eligible to receive the Education Training Voucher (ETV) funding if they are 18 to 21 years old and enrolled in at least six credit hours at a postsecondary institution or in a job training program. If participants remain in good standing, they may continue the ETV program until age 23.

Representative Collins noted that it can sometimes be more damaging for foster children to go back to their original home setting. Discipline in the original home setting might not be as good, and the children might not be supervised as well. Family Resource Centers are a tremendous help with foster children.

In response to Representative Stone's questions regarding average length of stay for a child in foster care and engaging other students in helping foster students make the transition of switching schools, Mr. Grace said the information changes from month to month but that he would obtain it. Mr. Grace noted that it would be a great idea to have other students involved with the transition of foster students.

In response to Representative Belcher's questions regarding a breakdown of the number of foster children per county and transitional help, Mr. Grace said he would get those numbers for each county. Ms. Wilson said federal legislation requires transitional plans, and they are required to do those six months prior to the children actually leaving foster care.

In response to Senator Westwood's questions regarding fostering connections, federal law requiring completion of secondary education, and children in foster care being considered homeless, Mr. Grace said it is not a perfect system, but the Cabinet is working on the action plans involving child welfare, the schools, and the courts. Tracy Herman, Department of

Education, explained that the definition of homeless includes those children waiting for foster placement.

In response to Senator McGaha's questions regarding the Kentucky child welfare data from the Power Point presentation, Mr. Grace said the figures for the number of investigations and substantiations are for the last fiscal year, and the total number of children in foster care is from a specific point in time.

In response to Representative Rader's questions for comparisons with other states, Mr. Grace said there are a number of states around Kentucky that have reduced the foster care population significantly over the past few years. He noted it is important to look at the re-entry rate instead of just the total number of foster children in other states. He also stated that a significant number of the cases are drug related.

In response to Representative Carney's question regarding who determines the goal of adoption, Mr. Grace said the court determines the goal of adoption.

#### **Approval of the June 11, 2012, Minutes**

Upon motion from Senator Westwood, seconded by Representative Carney, the minutes were approved by voice vote.

#### **Real Life Perspective of Kentucky's Foster Care System**

Patrick Yewell, Executive Officer, Department of Family and Juvenile Justice Services, Administrative Office of the Courts, discussed his first-hand experience with the foster care system. He oversees all family and juvenile programs in the state of Kentucky for the court systems and has been part of the foster care system for six decades. He stated that in the 1960s, he spent time in foster care; in the 1970s, he became an adopted child; in the 1980s, he began his college career; and following college, he started his career with the Department of Community Based Services investigating child abuse.

Mr. Yewell said that while in foster care he remembered having a heightened fear and sadness because he did not know what was next. He was from a sibling group of nine and he lost a brother, a niece, and a foster brother due to abuse. His parents met at a mental hospital, and he has four sisters who have been institutionalized because of mental health issues. His mother suffered from mental health issues all of her life and his father, who also had mental health issues, was extremely abusive. His story is no different than anybody else's foster care story. Since he was in foster care, some things have gotten a better and some things have not. Some of the same issues he sees now are some of the same issues he saw in the 1980s.

Mr. Yewell stated that school was not very easy for him and his siblings. He was not allowed to go to kindergarten because he was in foster care. At that time, Kentucky did not require kindergarten. Foster children were treated very similar

to the students with handicaps. His sister had an extremely difficult time in school. She dropped out three months before graduation because she was being severely bullied.

Mr. Yewell stated that he has been blessed and thought he was the least likely person to go to college. Only 50 percent of children who enter foster care graduate from high school, and only ten percent go to college. He was not prepared when he went to college. He struggled but was able to obtain his graduate degree. He was inducted into his college's Hall of Fame.

Representative Belcher said she appreciates Mr. Yewell's story and that he is a positive role model for foster youths.

Responding to Representative Collins' question regarding the statistics dealing with foster children going to college, Mr. Yewell said he thinks the statistics are related to treatment and treatment dollars. Mr. Grace said that the resources are usually inadequate to meet the huge need.

Responding to Representative Graham's question regarding a foster child's say in staying with the foster family or going back to the biological family, Mr. Grace said age has a lot to do with it. Children are encouraged to be involved with that decision when they have the capacity to make those decisions. Mr. Yewell stated that most of the time the foster child will find his or her way back home.

Representative Edmonds thanked the guests for their presentations. With no further business before the committee, the meeting adjourned at 11:48 a.m.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

### **Subcommittee on Postsecondary Education**

#### **Minutes of the 2nd Meeting of the 2012 Interim**

August 13, 2012

##### **Call to Order and Roll Call**

The second meeting of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education was held on Monday, August 13, 2012, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Reginald Meeks, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Reginald Meeks, Co-Chair; Senators Jared Carpenter, Johnny Ray Turner, Mike Wilson; Representatives C.B. Embry Jr., Kelly Flood, Jody Richards, Tom Riner, and Carl Rollins II.

LRC Staff: Jo Carole Ellis, Kenneth Warlick, and Lisa W. Moore.

##### **Approval of Minutes from June 11, 2012 Meeting**

Minutes were not approved due to lack of a quorum.

##### **College Readiness and Postsecondary Education in Kentucky**

Mr. Robert King, President, Kentucky



Council on Postsecondary Education (CPE), said in 2011, 11 out of 20 high school graduates tested ready in English, 9 out of 20 tested ready in mathematics, 10 out of 20 tested ready for reading, and only 4 out of 20 tested ready in science. He said the number of full-time associate and baccalaureate students who entered a Kentucky public or independent university college ready completed a degree at double the rate of those who entered not college ready.

President King said that Senate Bill 1, enacted by the Kentucky General Assembly in 2009, was a landmark piece of legislation. Responding to a question from Representative Meeks regarding Senate Bill 1 partnerships, President King agreed that parents and employers are important partners and the graph in the PowerPoint presentation will be modified to include them. He noted support systems in local communities, such as churches, play vital roles in meeting the goals of Senate Bill 1.

President King said the goals of Senate Bill 1 were to reduce college remediation of recent high school graduates by at least 50 percent and to increase college completion rates of developmental students by three percent annually. Senate Bill 1 calls for new standards, that are fewer, but more in-depth. The new standards should be internationally competitive and aligned with postsecondary standards.

President King said Senate Bill 1 required the creation of a unified strategy for college and career readiness. He introduced Sue Cain and John DeAtley, CPE, whom he credited with the success of aligning higher education with the Kentucky Department of Education (KDE) and the Education Professional Standards Board (EPSB). The strategy outlines accelerated learning opportunities, secondary intervention programs, college and career readiness advising, and postsecondary college persistence and degree completion.

Responding to Representative Meeks question regarding students taking the ACT test earlier in high school, President King said the Kentucky General Assembly passed legislation that has students taking a series of three examinations, all of which are produced by ACT. These tests are administered to students in the eighth, tenth, and eleventh grades and are aligned with the new common core standards.

President King said the Kentucky Online Testing Program (KYOTE) is a principal component of a large, statewide college readiness consortial effort focused on achieving the Senate Bill 1 goal. The consortium is working toward statewide extension of the college readiness program. Teams of college and school faculty develop "mathematics transition courses" for secondary seniors whose ACT scores are below Kentucky's minimum entry for college-credit mathematics courses. The KYOTE exams are administered securely by the school. Participating teachers and administrators receive complete data

immediately for use in further developing the transition course and in revising the earlier curriculum. He said placement in college-credit courses is guaranteed to students scoring well. Preliminary 2008-2009 math data indicate placement rates for at-risk students in college-credit courses at or above Senate Bill 1 goal levels of 50 percent reduction in remediations. If successful, the project will expand the range of mathematics instruments and implement KYOTE English, reading, and writing testing programs.

Representative Meeks said he is more interested in knowing the student progress between the eighth and tenth grade exam. Ms. Cain said middle school transitional courses were developed for reading, writing, and mathematics this past year for students who did not meet targets for readiness on the Explore test in eighth grade. She noted if students can get on target by the ninth grade, they are more likely to stay on target through graduation.

President King said the college readiness strategic agenda consists of three policy objectives. The first objective is to increase the number of college-ready Kentuckians entering postsecondary education. The second objective is to increase the number of college-ready GED graduates. He noted Kentucky is one of the first states to align its GED program with the common core standards. The final objective is to increase the effectiveness of Kentucky's K-12 teachers and school leaders.

President King said the "Commonwealth Commitment" was signed by college and university presidents, the KDE commissioner, the CPE President, and legislators. It is a pledge to work collaboratively to improve student transitions and implement the unified strategy.

President King said in addition to developing new assessments, the Senate Bill 1 steering committee was comprised of legislative leadership, CPE, KDE, EPSB, and the Governor's office. This committee kept the legislators apprised of progress and demonstrated financial needs to fund necessary professional development. He noted the General Assembly appropriated \$6 million, plus \$1.5 million in recurring funds.

Responding to Representative Meeks question regarding students who require remediation classes in college, Dr. Cain said the college faculty who interact with the students on a day-to-day basis are the ones who are developing the transition courses to bridge the gap between high school and college readiness. The faculty knows specifically what information the students are lacking and can appropriately address the deficiencies in the transition courses.

President King said most students who are testing below readiness showed signs of trouble in elementary school. He said the two national testing consortia are

developing new assessments aligned with the common core standards for grades three through eight. He said it is CPE's responsibility to train teachers how to use the assessments effectively in order to identify struggling students and conduct an immediate intervention.

President King said the public needs to be educated about Senate Bill 1 and the need for more rigorous standards. He mentioned partnering with the Prichard Committee of Academic Excellence and local and national foundations to develop informational materials. There is also support from the Gates Foundation to hold a series of informational sessions presented by KDE Commissioner Holliday and the State Chamber of Commerce.

President King said Kentucky is the envy of other states with the implementation of Senate Bill 1. He hopes Kentucky can be a model for the nation and shared some valuable lessons learned over the past two years. He noted involving higher education as early as possible when adopting new standards was critical to gain buy-in and ownership. He said K-12's success is critical to higher education's success. P-20 collaboration is critical and must extend deep into each sector. Finally, he added that assessment of reading drives placement decisions for students, not admissions.

Dr. King said there are related benefits to the enactment of Senate Bill 1. It has standardized general education outcomes and enhanced transfer opportunities across the system. He said there is agreement on common placement exams and common learning outcomes for college readiness. It has also changed educator preparation and redesigned the master's degree for teacher and principal programs.

President King said professional development will be improved to emphasize academic leadership for school leaders. Kentucky colleges and universities will be involved in the design and provision of research-proven, high-quality, effective professional development. He discussed the next steps in teacher preparation and the complete list is located in the meeting materials located in the Legislative Research Commission (LRC) library.

President King concluded that Kentucky is rethinking and redesigning the delivery of developmental education to be more conducive to student needs. This includes incorporating the emporium model, providing learn on demand programs, offering supplemental coursework, and implementing bridge programming.

Responding to Representative Rollins question regarding the ACT science benchmarks for non Science, Technology, Engineering, and Mathematics (STEM) majors, Dr. Cain said scores show students who are successful in college biology have an average ACT score of 22.

Responding to Representative Rollins question, Dr. Cain said all Kentucky public universities have supplemental coursework, including the Kentucky

Community and Technical College System (KCTCS). She said teachers need to do a better job of identifying which students need the full course, and which just need certain modules, or component parts, based on a diagnostic assessment.

Responding to Representative Rollins question about the survey of the difference in teacher professional development needs versus what is offered, President King said the TELL survey data is not broken down by college or university. However, CPE has completed a rough analysis with the new P-20 data warehouse. He said a model is being developed to identify public high schools that have at least 50 percent of its teacher core graduating from the same university and analyze how their students are performing on the ACT exams.

President King said CPE is trying to match up schools with common demographics by using the free and reduced lunch indicator as a measure. If two schools are relatively matched demographically, but one school is out performing the other in terms of student performance, this could indicate the need for the school with the high performing students to give some training to the other school. He noted the eventual goal is to track Kentucky graduates into their teaching profession and see how their students are performing.

Representative Rollins said 75 percent of teachers indicated a need for additional professional development in differentiating instruction. He said it may be useful to compare where new teachers attended college and what was covered in their undergraduate education to address these areas of need. President King said the new P-20 data warehouse should be able to track the information in the future.

#### **Low-Income and Minority Participation at Kentucky Medical Schools**

##### **University of Louisville School of Medicine**

David L. Wiegman, Ph.D., Associate Vice President for Health Affairs, Vice Dean for Academic Affairs, Professor of Psychology, University of Louisville (UofL) said he established the Office of Minority and Rural Affairs in 1984. He said the University School of Medicine continually strives to ensure diversity and equal opportunity. The School of Medicine has placed a major emphasis on increasing the number of students from racial and ethnic groups designated as underrepresented in medicine and from rural counties designated as Health Professions Shortage Areas who apply to medical school, matriculate, and ultimately become practicing physicians.

Dr. Veronnie Faye Jones, Pediatrics Professor and Associate Dean for Academic Affairs, Office of Minority and Rural Affairs, Kentucky Area Health Education Center Program Director, UofL, discussed the various entrance programs that create a pipeline of students into the medical school and eventually into practice. She said the primary program



is the Kentucky Area Health Education Center (AHEC), which is a collaborative effort of the UofL Health Sciences Center, the University of Kentucky (UK) Medical Center and eight regional centers. The AHECs work to improve recruitment, distribution, and retention of health care professionals (particularly in primary care) in medically underserved areas throughout the commonwealth. The AHEC program was created in 1992 and is offered in a four-week course during the summer. She noted approximately 70,000 students enrolled in an AHEC program in 2011.

Dr. Jones said the Professional Education Preparation Program (PEPP) Pre-College Summer Workshop is a residential academic enrichment and career exploration summer program for graduating high school seniors interested in medicine or dentistry. The program equips young scholars to transition into college and helps them plan for competitive medical or dental school applications. The PEPP has been in existence since 1981.

Dr. Jones said the Multicultural Association of Premedical Students (MAPS) is an academic support group that motivates, encourages, and prepares premedical students (undergraduates, post-baccalaureate or graduate students) for applying to medical school. Students from minority groups or underserved areas are provided mentors, shadowing opportunities, community service involvement, premedical resource materials, and additional academic guidance to enhance them as they become competitive medical school applicants. She noted the ultimate goal of MAPS is to increase the number of competitive medical school applicants and to diversify medical school enrollment and the health professional workforce.

Dr. Jones said the Summer Medical and Dental Education program (SMDEP) offers daily opportunities for rural, minority, and disadvantaged undergraduates to experience the way in which math and science are integrated into medical and dental school studies and careers. It is a six-week summer residential program and offers participants three hours of academic credit along with free housing, meals, a stipend, and limited partial travel assistance.

Dr. Jones said students, after completion of two years of college, may participate in a summer residential program to assist them in preparation for the Medical College Admission Test (MCAT). She said weekly supervised practice test sessions are conducted.

Dr. Jones said the new Post Baccalaureate Program is designed for those changing careers and college graduates with minimal pre-med science (biology, chemistry, and physics) who are preparing for medical school. She said the program serves as a navigation system for its students and provides a support system to guide them throughout entire pre-medical process.

Dr. Jones said since 1987, the

Medical Education Development (MED) program has provided a special year for promising applicants who do not gain acceptance through the regular process. MED program participants are selected from the pool of regular applicants and are invited to take selected courses from the first year medical school curriculum, as well as three graduate level courses. Upon passing each course satisfactorily, MED Program participants are recommended for admission to the upcoming freshman medical school class to take the remainder of the first year medical curriculum. MED program participants are assisted regularly by staff and are required to participate in the Prematriculation Program. She noted 90 percent of students who participate in the MED program are successful in completing medical school.

Dr. Jones said in 1989, UofL initiated the summer Prematriculation Program which includes students from racial and ethnic groups underrepresented in medicine, medically underserved counties, non-traditional age groups, economically disadvantaged settings, and other disadvantaged backgrounds. The goal is to increase the likelihood of success in medical school.

Responding to Representative Meeks question regarding how many students enrolled in the entrance programs are Kentucky residents, Dr. Jones said AHEC and PEPP consist of only Kentucky students. She said the SMDEP is encouraged to enroll 50 percent of Kentucky resident students, but has 35 percent.

Dr. Jones said 437 Kentucky students applied for medical school in the fall of 2012, and 427 were accepted. She also noted that 2,678 out-of-state students applied and 2,624 were accepted into the UofL medical school for the fall of 2012. Minority enrollments have remained fairly stable with 8 out of 23 Kentucky applicants being accepted in 2012. Minority applications are increasing for out-of-state students with 13 of 200 applications being accepted in 2012. She added that 40 rural student applications were received in 2012, and 15 were accepted.

Responding to a question from Representative Meeks regarding the decreasing numbers of African American students that are successful, Dr. Wiegman said UofL has been successful in increasing minority applicants. He noted some minority students have been very competitive nationally and received good scholarships. He noted UofL is losing minority students because of a lack of scholarship money. UofL pays 50 percent tuition for an out-state-student minority scholarship, and 60 percent for an in-state scholarship, but the school used to pay 100 percent of the tuition for both.

Responding to a question from Representative Rollins about student debt, Dr. Jones said UofL pays the entire cost of the prematriculation program. Representative Rollins is concerned about

the enormous student debt of students who do not finish and graduate from medical school.

Representative Riner said he feels the scholarship money should be used for minority Kentucky students, and not minority out-of-state students. Dr. Weigman said it has to do with critical mass of students. He said the state of Kentucky has a lower percentage of minority students. As a result, UofL has had a stronger program by using a national pool of students. However, the minority graduation rate was 64 percent prior to the creation of the Office of Minority and Rural Affairs in 1984. The graduation rate is now 90 percent for minority students. He added that the MED program is comprised of 75 to 80 percent African American students. The minority statistics do not include Asian students.

#### **University of Kentucky College of Medicine**

Carol Elam, Ed.D., Associate Dean for Admissions and Institutional Advancement, University of Kentucky (UK), said 41 percent of the pool of applicants for the UK College of Medicine (UKCOM) is female. She said there is also a 41 percent matriculation rate for female medical students. In 2003, the average female applicant pool nationally was 50 percent and has since dropped to 47 percent, while Kentucky's has held constant at 41 percent.

Dr. Elam noted 55 percent of the residency students are from Appalachian, rural, and urban counties in Kentucky. She said UKCOM implemented a guaranteed tuition program in 2007 to offset rising tuition costs. This guarantees each entering class that tuition will remain constant for the four years they are enrolled in medical school. She noted this approach required a 25 percent matriculation rate of out-of-state students to offset the costs of the program.

Dr. Elam said admission to the UKCOM continues to be competitive with more than 2,000 applicants from across the Commonwealth and nation applying annually for 118 spots in each class. Approximately 96 percent of all medical students receive some form of financial aid and 45 percent benefit from scholarship awards. Typically, 65 percent of UKCOM graduates live in Kentucky.

Dr. Elam noted that 11 percent of students who applied to UKCOM identified themselves as disadvantaged. She said only two percent of applicants were Hispanic, and this statistic could change in the near future. The black applicants, which includes non United States citizens, is typically around five percent, which is very small. The Asian applicant pool was 19 percent. There were 430 Kentucky applicants and 118 matriculated students.

Dr. Elam said the MCAT applicant score was 31.9. She noted the average MCAT score for black applicants was 23.6 out of 126 applications. For the 27 black Kentucky resident applicants, the average MCAT score was 24.2, of which 17 were

accepted. Six of those were matriculated with an average MCAT of 28.7. She noted that black Kentucky students with outstanding MCAT scores can attend Ivy League schools, and UK recruited and lost two of those students last year.

Dr. Elam explained the various recruiting activities. She said the program's goal is to always attract more under-represented minorities to the university. This includes African Americans, Hispanics, and students from eastern Kentucky. She said the Rural Physician Leadership Program (RPLP) is unique to UK and was developed in response to growing health care needs evident in rural areas of Kentucky and the rest of the nation. She noted Morehead State University will accept up to 10 students per year.

Emery Wilson, M.D., Dean Emeritus, UK, discussed the physician shortage in Kentucky and nationwide. He noted Kentucky needs an additional 2,200 physicians by 2025. He said the average debt for a Kentucky medical school student is \$150,000. The rising cost of tuition continues to eliminate minorities and rural students from applying.

#### **University of Pikeville**

Boyd R. Buser, D.O., FACOFP, Vice President for Health Affairs and Dean, Kentucky College of Osteopathic Medicine (KYCOM), University of Pikeville, said there are 53 percent males enrolled in the program and 47 percent female students. Three percent of those are black males, and four percent are black females. He noted the program recently increased enrollment from 80 entering students to 135 in the fall of 2012 coincident with the opening of the medical education building on campus.

Dr. Buser said the median income of KYCOM students in the fall of 2012 was \$4,196. The number of students living in poverty was 68.5 percent, and living near-poverty was 13.4 percent.

Dr. Buser said students who are trained in rural areas are more likely to stay and practice in rural areas. A 2010 analysis of KYCOM graduate practice data by the National Center for the Analysis of Healthcare found that 62 percent of graduates practice in Appalachia, 32 percent practice in Kentucky, 44 percent practice in underserved areas, 38 percent practice in rural areas, and 41 percent practice within 120 miles of KYCOM.

Dr. Buser said 45 percent of graduates in 2012 were women, and 5 percent were ethnic minorities. He noted 73 percent of the graduates are entering primary care residencies. According to the *U.S. News & World Report* survey, the University of Pikeville Medical School is second in the nation in graduating osteopathic physicians (D.O.s) and allopathic physicians (M.D.s). It is also nationally ranked in the number of graduates entering primary care residency programs. He said the university is ranked the fifth most affordable medical school in the United States.

Dr. Buser said rising student debt is a continuing concern of the university.



Another concern is the differential pay between primary care specialties and other sub-specialties, which creates a powerful disincentive to enter into primary care residency programs.

Dr. Buser said the PEPP program serves 40 to 50 students a year. It is designed for tenth and eleventh grade students to help increase their aspirations for healthcare careers. The University of Pikeville Medical School awards \$1-2 million in osteopathic scholarships a year. He noted recipients must provide one year of service in Kentucky for each year the scholarship is awarded.

Responding to a question from Representative Meeks, Dr. Buser did not know the number of students receiving scholarship money, but will find the data and report it to the subcommittee.

With no further business before the committee, the meeting adjourned at 12:10 p.m.

## INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

### Minutes of the Second Meeting of the 2012 Interim

August 15, 2012

#### Call to Order and Roll Call

The second meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, August 15, 2012, at 1:00 PM, at the Sullivan University, College of Pharmacy in Louisville. Representative Tom Burch, Co-Chair, called the meeting to order at 1:00 p.m., and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Tom Burch, Co-Chair; Senators Joe Bowen, Tom Buford, Perry B. Clark, David Givens, Dennis Parrett, Joey Pendleton, and Jack Westwood; Representatives Julie Raque Adams, Bob M. DeWeese, Joni L. Jenkins, Mary Lou Marzian, Darryl T. Owens, Ruth Ann Palumbo, Ben Waide, and Addia Wuchner.

Guest Legislators: Representatives Dennis Horlander and Jimmie Lee.

Guests: Hieu T. Tran, Pharm.D., Vice-President, College of Health Sciences, Founding Dean and Professor, Sullivan University, College of Pharmacy; Allen D. Rose, Vice President for Business and Governmental Relations, The Sullivan University System; Tonya Chang, Kentucky Director of Government Relations, American Heart Association, Great Rivers Affiliate, and Don Battcher, Parent of a Child with a Congenital Heart Defect; Mark and Tina Hamm, Phoenix Preferred Care; Carrie Banahan, Executive Director, Office of Health Policy, Cabinet for Health and Family Services, and Bill Nold, Director, Health and Life Division,

Department of Insurance; Dana Cox Nickles, Policy Advisor to the Secretary, Cabinet for Health and Family Services; Dr. Terry I. Brooks, Executive Director, Andrea Bennett, Kentucky Youth Advocates; Nathan Goldman, Kentucky Board of Nursing; Steve Barger; Lindy Lady, Kentucky Medical Association; Drew Jenkins, Office of the Attorney General; Jim Grace, Department for Community Based Services, Cabinet for Health and Family Services; Joel Griffith; Heidi Schissler, Protection and Advocacy; Holly Curry, Cull & Hayden, PSC; Jordan Wildermuth, National Association of Social Workers; David Allgood; Talley Cockerel, Norton Healthcare; Erin Klarer, KHEAA; Gary Black, GlaxoSmith Kline; Erv Kelin, KAPHCC; Jane Gould, Kentucky Retail Federation; Rachel Bledsoe, Run Switch PR; Clyde Caudill, Jefferson County Public Schools; Beth Musgrave, Lexington Herald-Leader; Jill Bell, Passport Health Plan; Michele Blevins and Betsy Dunnigan, Department for Behavioral Health, Development and Intellectual Disabilities, Cabinet for Health and Family Services; Murray Wood, Morgan Pierstorff and Allison Lile, Cabinet for Health and Family Services; John Weeks, Delta Dental; Dana Mayton, University of Louisville; Carol Mueller and Pamela McDaniel, Council on Developmental Disabilities; Kasie Moore, National Association of Social Work; Tihisha Rawlins; Libby Mulligan; Guihru L. Lacey; and Sheila Hardy, House Minority Office, Legislative Research Commission.

LRC Staff: DeeAnn Mansfield, Miriam Fordham, Ben Payne, Jonathan Scott, Gina Rigsby, and Cindy Smith.

#### Welcome and Presentation

Allen D. Rose, Vice President for Business and Governmental Relations, The Sullivan University System, stated that Sullivan University has the largest MBA program in the Louisville area. Paul Coomes at the University of Louisville estimated that the College of Pharmacy has a \$50,000,000 annual economic impact on the local and regional economy. The university has campuses in Louisville, Lexington, and Ft. Knox. Over 4,000 students take online classes each term, and there are over 200 international graduate students pursuing Master's and PhD degrees. The Sullivan College of Technology and Design (SCTD) started its first program in the Skilled Trades area three years ago with a HVAC-R program at the commercial level. Approximately 8,700 students are expected to enroll in the fall of 2012.

Hieu T. Tran, Pharm.D., Vice-President, College of Health Sciences, Founding Dean and Professor, Sullivan University, College of Pharmacy, stated that in 2011, 74 students were admitted and 67 of the 74 graduated. In 2012, 96 students were admitted and 88 of the 96 graduated. In 2011, 11 graduates had residencies, and 13 graduates had residencies in 2012. The graduates practice

in the community at pharmacy chains and independent pharmacies, hospitals, long-term care settings, nuclear fields, and residency training. The College of Pharmacy provides services and support for the wounded warriors at Fort Knox, and two faculty members have practice sites at the Ireland Army Community Hospital at Fort Knox. The College of Pharmacy is a member of Kentucky NanoNet, a coalition of research on micro/nano technology also consisting of the University of Louisville and Western Kentucky University. The College of Health Sciences was established in December 2011 and will allow all health-related professions and majors under one roof (College of Pharmacy, College of Nursing, InterNational Center for Advanced Pharmacy Services, Office of Lifelong Professional Development, Drug Information Center, and others to be developed).

In response to questions asked by Representative Marzian, Dr. Tran stated that the College of Pharmacy tuition for a three-year program is \$41,000, which is \$29,000 less than any other college in Kentucky with the four-year programs.

#### Approval of the Minutes of the June 20, 2012 Meeting

A motion to approve the minutes of the June 20, 2012 meeting was made by Representative Owens, seconded by Senator Clark, and approved by voice vote.

#### Consideration of Referred Administrative Regulations

**201 KAR 8:562** – establishes requirements and procedures for the licensure of dental hygienists; **201 KAR 20:450** – provides procedures for the implementation of the Kentucky Alternative Recovery Effort for Nurses; **201 KAR 20:510** – establishes the procedures for a nurse or a dialysis technician who wishes to relinquish a license or credential prior to its expiration; and **900 KAR 7:030** – establishes the required data elements, forms, and timetables for submission to the Cabinet for Health and Family Services and fines for noncompliance. A motion to accept the referred administrative regulations was made by Representative Owens, seconded by Senator Clark, and approved by voice vote.

#### Legislative Hearing on Executive Order 2012-587 relating to the establishment of the Kentucky Health Benefit Exchange

In response to a question by Senator Givens, Representative Burch stated that the committee can either accept or not accept the executive order, but it goes into effect with or without the committee's approval or disapproval.

Carrie Banahan, Executive Director, Office of Health Policy, Cabinet for Health and Family Services, stated that on July 17, 2012, Governor Beshear signed an executive order that created the Kentucky Health Benefit Exchange within the Cabinet for Health and Family

Services and established the administrative structure to operate the exchange. The Office of the Kentucky Health Benefit Exchange will have four divisions: Health Care Policy Administration; Information Systems; Financial and Operations Administration; and Communication and Outreach. The Exchange Advisory Board will be appointed by the Governor and composed of eleven members who have relevant experience in health benefits administration, health care finance, health plan purchasing, health care delivery system administration, public health, or health policy issues related to the small group and individual markets and the uninsured. The board will send recommendations to the Office of the Kentucky Health Benefit Exchange.

In response to a question by Representative Burch, Bill Nold, Director, Health and Life Division, Department of Insurance, stated that the role of the department is to review plans, applications, riders, and approval of rates. Many roles placed upon the exchange through the Affordable Care Act are types of roles traditionally performed by the Department for Insurance. The certification of qualified health plans will be offered through the exchange. The law establishes certain criteria including essential health benefits that have to be offered through the health plans and other requirements that go beyond what the state would require a health benefit plan to meet.

In response to questions by Representative Owens, Ms. Banahan stated that the exchange will be a marketplace or venue where individuals will be able to purchase health insurance coverage. In order to qualify for the tax credit, small employer groups have to direct its employees to purchase health insurance coverage through the exchange. To qualify for premium assistance, individuals between 133 to 400 percent of the federal poverty level will have to purchase insurance through the exchange. Mr. Nold stated that the exchange will not offer insurance but will be a marketplace that will allow current and other insurers to market their plans. There is a requirement for a shopping tool that will show comparisons between the plans. The Affordable Care Act allows exchanges to offer multistate plans. The law requires, within a certain period of time, that the federal Office of Personnel Management contract with national insurers to provide benefits and plans to all states. While there would be large national plans involved, the benefits being provided in each state could vary substantially. It will provide opportunities for insurers to provide coverage across state lines. They may include Consumer Oriented and Operated Plans (co-ops), which are plans developed by qualified nonprofit health insurers. The co-ops are required to be licensed insurers in each state in which they operate. The exchange will either be set up by the state or federal government.

In response to questions by Senator



Givens, Ms. Banahan stated that, to obtain a tax credit, an employer will have to direct its employees to purchase insurance inside the exchange. To qualify for the tax credit, small employers will need 50 or fewer employees, with 20 full-time equivalent employees with an average annual salary of \$50,000 or less, pay 50 percent of the insurance premium cost, and purchase insurance inside the exchange. Large employers with over 50 employees and that do not offer health insurance to its employees by January 2014, will be assessed a \$2,000 penalty per employee. Before a penalty can be assessed against an employer, 30 employees will have to apply for insurance through the exchange and receive a premium subsidy. Large employers will be assessed a \$3,000 penalty per employee who has to pay more than 9.5 percent of their income for health insurance offered through the company but elect to get coverage through the exchange and then qualify for premium assistance in the exchange. The \$3,000 penalty will be assessed whether Kentucky has its own exchange or a federally operated exchange. She will check with the federal Department for Health and Human Services to make sure the Affordable Care Act requires the \$3,000 penalty on large employers whether it is a state or federally operated exchange. The exchange will be 100 percent federally funded through 2014, but will have to be self-sustaining by 2015. Kentucky has received a \$67 million federal grant and will apply for another Level II grant for from the federal government for system costs. Mr. Nold stated that a requirement of the new law is a sustainability plan has to be developed on how Kentucky is going to finance the exchange after 2014 and be sent to the Department for Health and Human Services. The plan will include the financing of the continued operations through user fees and other types of assessments and not through general dollar funds. Kentucky Access, Kentucky's high risk pool, will be phased out after 2015.

In response to questions by Representative Marzian, Ms. Banahan stated that standardized plans will be offered in the exchange and there will be an understandable description of rates and benefits given to individuals. Any plan issued in Kentucky beginning September 23, 2012, will require disclosures that are easily understood. There will be additional costs above the \$67 million to fully develop the exchange.

In response to a question by Representative DeWeese, Mr. Nold stated that 25 percent of the tobacco settlement funds help fund Kentucky Access. Those funds could be appropriated by the General Assembly to offset the costs of the exchange after Kentucky Access has been phased out.

In response to questions by Senator Denton, Mr. Nold stated that he has no idea what the federal government would charge to run the exchange instead of the Commonwealth, but Kentucky would be

responsible for the some of the costs. He said that the federal government wants to fund the state exchanges because it does not want to be responsible for running the exchanges. Individuals will be able to compare charts of the different plans available in the exchange in order to make an informative decision on which plan is best for them.

Ms. Banahan stated that the first set of emergency administrative regulations that would define the requirements of the qualified health plans would be filed in October or November. In January or February, insurers will have to file plans and rates with DOI for approval. The administrative regulations will be posted on the Cabinet for Health and Family Services and Department of Insurance web sites for comments before filing them as emergency administrative regulations. Individuals were not given the opportunity to make comments on the executive order before it was filed. Mr. Nold stated that the federal government has to develop ten different categories to be used for health benefits, and DOI would use the categories to determine health plans for 2013-2014 and then send the information to the Secretary of the Department for Health and Human Services.

Representative Burch stated that many uninsured Kentuckians overutilize the emergency room when they could instead visit a doctor's office, resulting in higher costs to the state. An 18 percent increase in healthcare every year cannot be sustained.

In response to questions by Senator Bowen, Mr. Nold stated that there will be ten categories of benefits that insurance companies would have to provide, but abortion would not be one of the requirements of the health plans.

In response to a question by Senator Parrett, Ms. Banahan stated that small business employers with 20 full-time employees whose average yearly wage is \$50,000 or less and who pay 50 percent of the premium will be eligible for the tax credit.

In response to questions by Representative Wuchner, Ms. Banahan stated that the state has received \$67 million from the federal government for planning money and start-up costs of the exchange. Thirty employees will be hired to oversee the exchange within the Office of the Kentucky Health Benefit Exchange.

In response to questions by Representative Jenkins, Mr. Nold stated that Massachusetts and Utah created an exchange before the passage of the Affordable Care Act. The law gives states flexibility on how to set up the exchange. The duties to be performed by navigators are to get the word out about the exchange and the availability of health insurance coverage for individuals. Currently, only an insurance agent can solicit, negotiate, and sell insurance, and that will not change under the new law.

A motion for the chairs to call

a special meeting of the interim joint committee prior to the implementation of the executive order for further discussion was made by Representative Wuchner, seconded by Representative DeWeese, and approved by voice vote. Representative Owens objected to the motion because the exchange would not be further along and little further information would be available by the meeting date.

#### **Pulse Oximetry Requirement for Newborn Screenings**

Don Battcher, parent of a child with a congenital heart defect (CHD), stated that a CHD is a structural abnormality of the heart that is present at birth and affects one in one hundred babies. Pulse oximetry is a simple, non-invasive test that measures the percentage oxygen saturation of hemoglobin in the blood by putting a clip on a toe or finger of the newborn. CHD can be simple or complex, and can be undetected at birth. Every day, parents leave a hospital unaware that their newborn child has a CHD. New evidence indicates performing pulse oximetry screening on newborns prior to hospital discharge can help detect a CHD that may otherwise go undetected. The goal is to ensure all newborns are screened for CHF prior to hospital discharge. Estimates indicate that only 25 percent of hospitals are performing the screening on all newborns, and the goal is 100 percent. The benefits of pulse oximetry are that it is a simple test that reduces costs, reduces disability, saves lives, and avoids tragic trauma to families. The current newborn screening protocol includes cyanosis, which is visual and unreliable, and auscultation, which uses a stethoscope and has many false positives and false negatives. Approximately 40,000 infants a year have a CHD and 4,000 infants have chronic CHD. Approximately 2,000 infants a year die or have been missed diagnosed. Maryland was the first state to pass CCHD screening legislation. New Jersey was the first to mandate universal CCHD screening. Indiana, West Virginia, and Virginia have passed legislation.

In response to a question by Representative Wuchner, Tonya Chang, Kentucky Director of Government Relations, American Heart Association, Great Rivers Affiliate, stated that the American Academy of Pediatric has a protocol that hospitals could adopt.

In response to questions by Senator Denton, Ms. Chang stated that the pulse oximetry test takes ten minutes, and the only cost to the hospital is staff time. The test should be performed 24 hours after birth and before being discharged from the hospital. Murray Wood, Legislative Liaison for the Cabinet for Health and Family Services, stated that the cabinet is in the process of requiring all hospitals to perform the pulse oximetry test. In June 2012, a survey was conducted by the Department of Public Health that showed approximately 80 percent of the hospitals are currently performing the test. The cabinet is piloting with the University of

Kentucky to obtain the data collection. The full state roll-out of the program will be on January 1, 2013.

#### **IMPACT Plus**

Mark Hamm, CEO, Phoenix Preferred Care, stated that his goal is to make legislators aware of an alarming trend surrounding outpatient mental health services for Medicaid eligible children. Medicaid-eligible children across the Commonwealth are being denied entrance into IMPACT Plus services, and ongoing services for children who had been approved for services are being denied the same services. Schools, DCBS, the court system, and families are begging providers for help, but providers are being forced to turn clients away due to arbitrary or artificial barriers that can be eliminated.

On January 1, 1998, Kentucky implemented IMPACT Plus, a behavioral health program for Medicaid-eligible children who have complex behavioral healthcare needs. The program was developed to increase the variety and availability of community-based service options and to decrease the needs for inpatient care. The goal of IMPACT Plus is for parents and caregivers to be able to understand both their child's needs and the systems involved, so they will have the knowledge in the future to weave in and out of service systems as their child's needs indicate. Tradition barriers for families include transportation, financial issues, and being overwhelmed due to involvement in multiple governmental, state, and court-related systems. The inability of IMPACT Plus providers to provide services outside of the program to any Medicaid-eligible child severely limits the outpatient behavioral health options for children and families. IMPACT Plus providers want to be a significant part of the solution to the problems. The cabinet and Managed Care Organizations (MCOs) need to interpret the IMPACT Plus regulation, 907 KAR 3:030, utilizing broad language that clearly recognizes the fact that there are societal issues that place children at risk and that issues may arise that extend a child's need to remain in the program longer than a finite six months. This will increase access to the program and reduce very costly stays in hospitals and residential placements.

In response to a question by Senator Bowen, Mr. Hamm stated that once the state transitioned to managed care, providers have no way to track payments. The problem in back payments is the cabinet will reject a claim that has any problems before a payment is made to providers.

In response to Senator Clark, Mr. Hamm stated that providers contracted with and billed by the state before the managed care organizations were implemented.

In response to questions by Senator Denton, Mr. Hamm stated that Phoenix Preferred Care does not serve Passport patients. CoventryCares' patients consist of 67 percent of Phoenix Preferred Care clients and the rest is split between



Kentucky Spirit and Wellcare. Providers and recipients are satisfied with the services provided by Kentucky Spirit. Betsy Dunnigan, Deputy Commissioner, Department for Behavioral Health, Developmental & Intellectual Disabilities, stated that staff from the department have contacted and working with Mr. Hamm on issues of claims denial. As of August 14, 2012, all the claims that have been sent to the department by Phoenix have been paid. The intent of IMPACT Plus program was to be a coordinated, higher, intensive level of service and not a routine level of service with a duration of six months unless there is an prior approval for more needed intensive services. Transitioning to a lesser intensive level of care is the goal of IMPACT Plus. Files are received from the MCOs on Tuesdays and Thursdays and the claims are paid the next day. If IMPACT Plus providers can talk to the MCOs about providing lower level of services also, but those services would be paid under a different payment structure.

In response to a question by Senator Denton, Deputy Commissioner Dunnigan stated that the Certificate of Need (CON) laws must be considered before allowing providers to offer lower levels of care outside their expertise.

In response to a question by Representative Wuchner, Mr. Hamm stated that all IMPACT Plus providers are located in Kentucky.

#### **Adjournment**

There being no further business, the meeting was adjourned at 3:46 p.m.

## **INTERIM JOINT COMMITTEE ON JUDICIARY**

Minutes of the 3rd Meeting  
of the 2012 Interim  
August 3, 2012

#### **Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Judiciary was held on Friday, August 3, 2012, at 10:00 AM, at the Restricted Custody Center, McCracken County Jail, Paducah, Kentucky. Representative John Tilley, Chair, called the meeting to order, the secretary called the roll, and a quorum was not present.

Present were:

Members: Representative John Tilley, Co-Chair; Senators John Schickel, Dan “Malano” Seum, and Brandon Smith; Representatives Sara Beth Gregory, Joni L. Jenkins, Mary Lou Marzian, Michael J. Nemes, Tom Riner, Steven Rudy, and Brent Yonts.

Guests: Bill Adams, McCracken County Jailer; Mike Simpson, Oldham County Jailer and President, Kentucky Jailer’s Association; Alison Lundergan Grimes, Secretary of State; Tom Rutledge, Stoll Keenon Ogden; LaDonna Thompson, Commissioner, Kimberly Potter-Blair, Deputy Commissioner, James Erwin, Deputy Commissioner, and Tim Carman, Director, Division of Probation and Parole, Department of Corrections; Bob Babbage, Jason Gilbert and Chuck

Geveden, Corrisoft; Oliver Barber, Dismas Charities; and Fred Nesler, Department of Agriculture.

LRC Staff: Norman Lawson Jr., Jon Grate, and Rebecca Crawley.

Chairman Tilley announced that Senator Tom Jensen was ill and could not attend the meeting. He noted that House Speaker Greg Stumbo and House Majority Floor Leader Rocky Adkins were attending the meeting.

#### **Welcome**

The first speaker was McCracken County Jailer Bill Adams, who welcomed the committee, praised the cooperation between the McCracken County Judge-Executive, the McCracken County Sheriff, and his office, and introduced various local officials who were attending the meeting. Representative Rudy introduced local jailers from west Kentucky, Chief District Judge Louis K. Myers, whose district covers Ballard and Carlisle Counties, and Public Advocate Chris McNeil.

#### **Jailer’s Concerns**

Mike Simpson, Oldham County Jailer and President, Kentucky Jailers’ Association, discussed the catastrophic medical care provisions of 2011 House Bill 463 and the need for increased funding. He said the General Assembly increased this funding by \$960,000 in fiscal year 2013, and it is hoped it will be enough to meet their needs. Chairman Tilley noted that prior to passage of House Bill 463, there was no funding for medical care for jails, and the catastrophic medical care funding was untapped because the process was too burdensome. He said the 2013 General Assembly will take another look at the funding level and noted hospitals are pleased with the increased funding.

Mr. Simpson said another concern relates to deputy jailers who transport prisoners from counties with closed jails (one-third of Kentucky counties do not have a jail) to counties with open jails. Deputy jailers are not sworn peace officers and there is concern about whether they have authority to make arrests and be armed when transporting prisoners. Senator Schickel said the law (KRS 446.010) provides that persons with arrest powers are peace officers. Speaker Stumbo said he was not aware that deputy jailers are not sworn peace officers, and the General Assembly would need to study the fiscal impact of expanding this authority on the state budget and the retirement system. Mr. Simpson said the Kentucky Jailers’ Association would like to see deputy jailers become sworn peace officers and is ready to provide any needed training and peace officer (POPS) certification. It was noted Representative Jenkins introduced legislation in 2012 to address this concern, but the bill did not pass. When asked if deputy jailers carry weapons and are certified, Anderson County Jailer Joani Clark said she hires off-duty police officers to transport prisoners.

#### **Kentucky Department of Corrections Treatment and Reentry Programs**

Commissioner LaDonna Thompson, and Kimberly Potter-Blair, Deputy Commissioner for Support Services, Department of Corrections (DOC), gave an overview of Kentucky’s reentry programs, designed to help offenders successfully transition from prison back into the community. In April 2009, DOC established the Kentucky Alliance for Reentry (KARE) program with a tagline of “A Second Chance to Make a Second Impression”. The department has implemented the Level of Service/Case Management Inventory (LS/CMI) risk/needs assessment tool, mandated by 2011 House Bill 463, for all levels of inmates from the presentence investigation report, throughout incarceration, and for parole purposes. The LS/CMI assesses the offender’s risk level and identified needs such as attitude change, education, substance abuse treatment, and job and work skills. Most inmates in prison are medium and high risk offenders, while most people on probation are considered medium risk.

Ms. Potter-Blair said Kentucky established the first 24/7 reentry hotline in the nation for released offenders. Each prison now has a reentry coordinator, and Jefferson County has reentry parole officers who supervise medium and high risk parolees for the first six months following release. The Governor’s Reentry Task Force, established in April 2009, identified barriers to successful reentry, including limited housing, lack of affordable housing, employment challenges including education and training, and statutes and regulations which limit or prohibit employment of felons and other offenders. It found that Scared Straight, physical challenge, boot camps, and shaming programs did not work. Successful programs include those which focus on criminogenic needs, matching the offender to the program, cognitive behavioral modification, and positive reinforcement. In response to a comment from Senator Smith about the success of Outward Bound programs which challenge persons in outdoor settings, Commissioner Thompson responded some of those programs have high recidivism rates.

Senator Schickel disagreed with Commissioner Thompson and said the research on these programs is conflicted because some of the studies have built-in biases. He said the programs have changed from a military model to a treatment model, with varying results, depending on the study. Commissioner Thompson agreed to provide the members with additional information on various reentry programs. Representative Rudy praised the efforts and success of faith-based programs, which are now authorized by statute.

Senator Seum told the committee about a lady in Jefferson County who was convicted of a minor felony offense many years ago and completed nurses training, only to find out that she cannot be licensed to become a nurse and cannot

even join the PTA. Ms. Potter-Blair agreed restrictions on licenses are a major barrier to employment for inmates transitioning back into the community. Representative Tilley said the number of professions that prohibit licensure for people convicted of felonies and misdemeanors is extensive. He said misdemeanor expungement is a difficult process, and convictions for public intoxication and alcohol intoxication can keep people from getting jobs for many years. He noted Senator Jensen is very interested in statutory and regulatory changes to help offenders get jobs and become taxpayers again.

In response to a question from Representative Jenkins about family support for reentry, Commissioner Thompson said the department has received a grant to work with families during an inmate’s reentry. She added that persons who successfully complete the Sex Offender Treatment Program have a 50 percent reduction in recidivism compared to those who do not complete the program.

James Erwin, Deputy Commissioner for Adult Institutions, discussed programs for inmates prior to release, which are cognitive therapy based, address the criminogenic needs of the offender based on the LS/CMI assessment, evidence based and last six months. Examples include InsideOut Dads, Moral Recognition Therapy, Pathfinders, Substance Abuse Program, Sex Offender Treatment Program, and Thinking for a Change, a mental health program. He recommended that good time credit for treatment and completion of education programs as mandated by 2011 House Bill 463 be expanded to department approved 90 day programs.

Since implementation of House Bill 463 in July 2011, the department has increased the number of substance abuse beds from 430 in 2004 to 3,661 in 2012. These beds are located in all state institutions, supported by programs in several jails, community based programs, and Reentry Kentucky programs. The department is now implementing a 90-day program for persons with lesser abuse problems to supplement the 180-day program. He noted there are few outside treatment options because of insufficient funding.

Representative Tilley said the Task Force on the Penal Code and Controlled Substances recognized the substance abuse treatment needs of offenders were not being met. One year after implementation of House Bill 463, the justice reinvestment savings are being directed toward increased substance abuse treatment programs, allowing more offenders to be released upon completion of the program.

In response to a question from Representative Yonts about the lack of contracts with any of the statewide regional mental health programs, Mr. Erwin said some inmates do not have a home placement to go to when they are



released, preventing them from accessing regional mental health services. He said some jails are using community mental health programs.

Mr. Erwin discussed vocational education programs operated by DOC, including adult education, horticulture, carpentry, computer classes, and automotive body/collision repair. In response to a question from Representative Adkins, Mr. Erwin said the department no longer contracts with the Kentucky Community and Technical College System because the statutes were changed several years ago to utilize department-operated programs.

Tim Carmen, Director, Division of Probation and Parole, discussed two new programs mandated by 2011 House Bill 463 requiring mandatory reentry supervision for six months prior to release for specified offenders, and post-incarceration supervision for maximum or close-custody offenders. Since 2011, the division has added 73 probation and parole officers, 22 probation and parole investigators, 11 assistant supervisors, and 11 support staff. Seventy-five percent of those supervised are on probation, with the remainder from parole, pre-trial diversion, mandatory reentry supervision, sex offender post incarceration supervision, and specified felon post-incarceration supervision. The division currently uses the Supervision, Monitoring, Accountability, Responsibility, and Treatment (SMART) program in cooperation with the Administrative Office of the Courts, and has developed a program known as PORTAL, which provides basic life skills education for probationers and parolees. Mr. Carmen said Morehead State University is studying the effectiveness of the SMART program and will be making recommendations to the department.

#### **Potential 2013 Business Related Legislation**

Secretary of State Alison Lundergan Grimes, and Tom Rutledge, Stoll Keenon Ogden, presented on business related legislation. Secretary of State Grimes explained that in addition to being the chief election officer, she is also the chief business officer for the Commonwealth. The Secretary of State's Office maintains records on 728,054 entities. Required business filings have increased by 7,000 which can now be submitted on-line. She thanked the General Assembly for the 2012 passage of HB 270 relating to streamlining the occupational license tax form, HB 341 relating to the statutory trust act, and HB 441 relating to the Uniform Limited Cooperative Association Act. Mr. Rutledge said priorities for the 2013 Regular Session include updating the Kentucky Uniform Fraudulent Conveyance Act and revising the Model Nonprofit Corporation Act. Revisions to the Kentucky Business Entity Transactions Act will not be ready until the 2014 Regular Session.

#### **Felony Reentry Programs: Corrisoft**

Jason Gilbert, Vice President of

Sales, Corrisoft, a corporation specializing in alternatives to incarceration programs, said the business began six years ago with a Clear My Record Program in several states. It has expanded to include high tech employment, housing, education, substance abuse and mental health programs, and offender monitoring programs, with a special emphasis on programs for veterans. The programs are designed to break down silos of information so all parties who have information or services relating to an offender can communicate.

Representative Yonts said some GPS monitoring programs are ineffective because they require the use of land line telephones, or do not have full time cell phone coverage. Mr. Gilbert said his organization will be releasing a new monitoring system in the near future which will not rely on land lines and will address problems with cell phone coverage. Mr. Gilbert said the company has had 100 percent success in finding housing, 85 percent success in rehabilitation programs, 80 percent success in finding employment for offenders, 75 percent successful completion of education programs, and has documented a recidivism rate of 3.4 percent.

The meeting adjourned at 12:00 p.m.

## **INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY**

Minutes of the 3rd Meeting  
of the 2012 Interim  
August 16, 2012

### **Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, August 16, 2012, at 10:00 AM, at the Ford Motor Assembly Plant in Louisville, Kentucky. Senator Jack Westwood, presiding as Chair, called the meeting to order, and the committee assistant called the roll.

Present were:

Members: Senators Ernie Harris, Kathy W. Stein, and Jack Westwood; Representatives Will Coursey, C.B. Embry Jr., Wade Hurt, Joni L. Jenkins, Thomas Kerr, Adam Koenig, Mary Lou Marzian, Charles Miller, Terry Mills, Michael J. Nemes, Tanya Pullin, Tom Riner, Jim Stewart III, and Brent Yonts.

Guests: Andrew Tapp, Assistant Plant Manager, Louisville Assembly Plant; Steven Stone, Chairman, Louisville Assembly Plant; Jay Morgan, Director, Government Affairs.

LRC Staff: Linda Bussell, Adanna Hydes, Carla Montgomery, and Betsy Nickens.

Senator Westwood presided as Chair of the committee as Senator Kerr, Co-Chair, and Representative Nelson, Co-Chair, were unable to attend the meeting. Senator Westwood welcomed guests, Speaker Greg Stumbo, Speaker Pro-Tem Larry Clark, Representative Darryl Owens, and Representative Steve Riggs. Representative Owens spoke on behalf of

the Louisville delegation in support of the Ford Assembly Plant. Representative Clark offered his support of the cooperation of the United Auto Workers Union and the Ford Motor Company. The minutes of the previous committee meeting on July 19, 2012 were approved on a motion by Representative Yonts and a second by Senator Harris.

### **Presentation on Ford Motor Plant**

Andrew Tapp, Assistant Plant Manager, Louisville Assembly Plant (LAP), greeted the committee and presented information on the recent transformation of LAP which occurred from December 2010 to July 2012 in order to begin the production of the 2013 model Ford Escape. Scott Eskridge, Chairman, Kentucky Truck Plant, and Todd Dunn, Chairman, United Auto Workers (UAW) Local 862, were unable to attend the meeting. Mr. Tapp informed the committee that LAP recently began operating a third shift, creating 1,200 jobs. Steve Stone, Chairman, UAW, stated that the union membership in 2011 was 1,100 and current 2012 membership has reached 4,500.

The Ford Motor Company began manufacturing in Louisville in 1913 with the ability to produce twelve Model T's per day. After relocating, at the new site LAP began producing 1.5 million vehicles per year. In 1941, UAW Local 862 was founded. In 1955, LAP moved to its current location at 2000 Fern Valley Road in a building covering two million square feet. The Kentucky Truck Plant was built in 1969, making Louisville "the truck capital of the world." The transformation of LAP at Fern Valley Road began fiscally in 2007 with legislative support and continued through 2011 with the initial demolition and reinstallation of the facility to over three million square feet. Other improvements included paving the parking lot with environmentally conscious pervious pavers and replacing hard tooling within the plant with new equipment enabled with programmable locators to allow for multiple projects at one location. Process Control Boards were installed to monitor the facility's functions. LAP boasts best-in-class workforce training programs. LAP electricians serve as trainers on-site and train new employees on replicated work stations and controls, including welding, sealer application, and programming robotics before they are introduced into the plant.

LAP donates to various organizations including, March of Dimes, United Way, St. Baldricks, the Susan G. Koman Foundation, Make A Wish, Adopt-A-Child, and supports the local community by supporting food drives, coat drives, blood drives, and other volunteer programs.

In response to questions from Senator Westwood, Mr. Tapp expressed that education is key in preparing students in math and sciences for skilled and technical positions. LAP is seeking maintenance supervisors, automation engineers, electricians, and people who

are able to pass the exams necessary to gain employment in technical positions.

Senator Stein informed the committee of the grand opening of the new facility for advanced battery research, which is part of the University of Kentucky's Center for Applied Energy Research. The facility is home to the Kentucky-Argonne Battery Manufacturing Research & Development Center laboratories, jointly affiliated with the Argonne National Laboratory in Chicago. Jay Morgan, Director, Government Affairs, said Ford Motor Company was the only automotive company represented at the opening.

Mr. Tapp stated that each vehicle is produced with 2,600 parts and represents over 500 suppliers, many of them local, in response to a question from Senator Harris. According to Mr. Morgan, in 2010 Ford spent \$4 billion on parts in the state of Kentucky.

Responding to a question from Senator Westwood, it was stated that the general workforce population starts at \$15.74 an hour. Engineers and technical positions make \$34 dollars per hour or start at \$80,000 on salary.

In response to a question from Representative Riggs, Mr. Tapp said in the instance of failure of drug testing, it occurs more often in hiring of the general workforce population, but does not occur as much in hiring of technically trained employees.

In response to a question from Representative Westwood, Mr. Tapp said LAP builds over 1,300 vehicles per day and current demand for the 2013 Ford Escape is high. In response to Representative Marzian, Ford Motor Company exports products to Canada and Mexico and maintains a global platform building similar products across the world in Europe and China.

Representative Yonts made a presentation upon the upcoming retirement of Linda Bussell, the committee staff administrator of the Committee on Labor and Industry for the Legislative Research Commission.

There being no further business the meeting adjourned and the committee toured the Louisville Assembly Plant and Training Facilities.

## **INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS**

Minutes of the 3rd Meeting  
of the 2012 Interim  
August 27, 2012

### **Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Licensing and Occupations was held on Monday, August 27, 2012, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Dennis Keene, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Dennis Keene,



Co-Chair; Senators Tom Buford, Julian M. Carroll, Denise Harper Angel, Jimmy Higdon, Paul Hornback, Dan “Malano” Seum, Kathy W. Stein, Damon Thayer, and Robin L. Webb; Representatives Larry Clark, David Floyd, Dennis Horlander, Wade Hurt, Joni L. Jenkins, Adam Koenig, Reginald Meeks, Charles Miller, Michael J. Nemes, David Osborne, Ruth Ann Palumbo, Carl Rollins II, Sal Santoro, Arnold Simpson, and Susan Westrom.

Guests: John Ward, Executive Director, Marc Guilfoil, Deputy Executive Director, Mary Scollay, DVM, Equine Medical Director, Jamie Eads, Director of Incentives and Development, Greg Lamb, Supervisor of Pari-Mutuel Wagering, and Susan Speckert, General Counsel, Kentucky Horse Racing Commission; Arch Gleason, President and CEO, Kentucky Lottery Corporation; Rick Hiles, President, Horsemen’s Benevolent and Protective Association, Inc., Clara Fenger, DVM, private veterinarian; John Piehowicz, DVM, private veterinarian.

LRC Staff: Tom Hewlett, Bryce Amburgey, Carrie Klaber, Michel Sanderson, and Susan Cunningham.

#### **Approval of minutes**

A motion to approve the minutes from the July 13, 2012 meeting was made by Senator Buford and seconded by Representative Horlander. The motion carried by voice vote. Representative Keene announced that the September committee meeting will be held on its regular day, September 14. However, the location will at Southern Wine and Spirits in Louisville, Kentucky. Directions were included in members’ meeting folders and will be mailed with the September two-week notice.

#### **Kentucky Horse Racing Commission**

John Ward, Executive Director, Kentucky Horse Racing Commission, (KHRC) told members he has been Executive Director for only five months, adding that this was his first time before the committee. Mark Guilfoil, Deputy Executive Director of the commission introduced Jamie Eads, Director of Incentives and Development for a report on the breeder incentive and thoroughbred development funds. Ms. Eads told the committee the breeder incentive funds come from the six percent sales tax assessed on the fee for breeding a stallion to a mare in Kentucky. This is split among thoroughbreds, standardbreds and 11 non-race breeds in statutorily determined amounts. The funds are designed to reward breeders who have mares bred and foaled in Kentucky.

The thoroughbred breeder is required to register on or prior to August 15 to qualify for this fund. It is estimated that 60 percent of the 8,000 thoroughbred mares bred will register for the fund this year. Thoroughbred breeders receive awards from the fund when horses bred and foaled in Kentucky win an eligible race. In November of 2011 regulation 810 KAR 1:070 was changed to increase the numbers

of eligible races. The change also allowed mares in the November sales to pay a late fee of \$150 rather than \$750. Another change to the fund is the incorporation of stakes races outside of Kentucky and removal of the age limitation on stakes races outside Kentucky to support longevity in the sport.

This year the KHRC is working with the Kentucky Thoroughbred Owners and Breeders (TOBA) to co-brand their product, allowing the commission to highlight the quality of Kentucky bred and save on marketing dollars.

The Kentucky Standardbred Incentive Fund nominations are down in the two-year olds, yearlings and the stallions. The committee has started a dialogue to change the regulation to better support the program. The Kentucky Sire Stakes is one of the richest sire stakes for Standardbreds in North America. It consists of two legs and a final for two and three year-olds. On September 9, at the Red Mile, over \$2 million in purses will be awarded.

Greg Lamb, Supervisor of Pari-Mutuel Wagering, also provided information to the committee. He said historical racing has been implemented at Kentucky Downs. In the first 11 months of the fiscal year, \$129 million was wagered on historical racing. This has produced almost \$2 million for various state programs and \$454,528 for the General Fund. Depending on the weekends in a given month approximately \$15 million, on average, is being wagered. The Kentucky Thoroughbred Development Fund has received \$1.2 million from Kentucky Downs. These funds came from wagers placed on historical racing.

Additionally, in the last year Advanced Deposit Wagering (ADWs) has become licensed in Kentucky. Licensees are required to submit data showing the amount Kentucky residents are wagering through the ADWs. The amount wagered by Kentucky residents via ADW in the second quarter of 2012 was over \$47 million.

The KHRC also now licenses totalisator companies. Totalisator standards have been developed that define basic procedures all totalisator companies must follow to operate in Kentucky.

In response to a question from Representative Clark, Mr. Lamb said Oregon charges a daily fee for ADWs, of one-eighth of one percent of the first \$60 million wagered, and then the rate goes up on the amount wagered over \$60 million. He said that Kentucky, charging one-half percent, to return to the industry through incentive programs, was not out of line.

In response to a question from Senator Buford, Mr. Guilfoil said Rock Ohio purchased a share of Turfway Park recently. Ohio recently stated it will be three years before it knows where its breed development fund stands. Expanded gaming in Ohio will definitely hurt the Kentucky tracks. Racetracks in Ohio are being relocated to areas that will better accommodate expanded gaming at

racetracks.

Senator Thayer said the expansion of gaming in Ohio was approved through a state wide constitutional amendment, where the people of Ohio voted to approve casinos. There are going to be four full-blown casinos in large cities and several racetracks are already operating video lottery terminals and slot machines. In Kentucky, the state pari-mutuel tax of 1.5 percent is applied to wagers on historical racing. A part of this money goes to the breeders incentive fund. The amount of money generated for incentive funds in Kentucky will not be able to match the money Ohio will generate by expanded gaming.

Senator Thayer also said that Advance Deposit Wagering is account wagering by someone who has put money into an account and can wager from that account over the phone, computer, or smart phone. The ADW is the only pari-mutuel wagering growth area; however, it is not taxed in Kentucky. Because that money does not add to the breeders incentive fund or the development fund it makes Kentucky’s product less competitive to surrounding states.

In response to a question from Representative Clark, Mr. Lamb clarified the amount reported, and said the Kentucky Oaks and Kentucky Derby wagers were included in the second quarter report of ADWs.

Mary Scollay, DVM, Equine Medical Director for the KHRC, said Kentucky is host to the most prestigious race, with the most coveted prize in the world on the first Saturday in May. The public expects the race to be held with integrity and that the outcome will not be impacted by illegal, performance enhancing drugs. In 1939, people across the country embraced an ugly, crooked-legged horse that overcame adversity again and again. The fact that Seabiscuit was often lame but still managed to race successfully was celebrated. By 1968, it was acceptable practice to make a lame horse sound and able to race with medications that masked pain or enhanced performance. In 2008, however, the public had changed its perception and an unsound horse that raced on medication was no longer viewed as courageous or inspirational, but rather as being exploited.

The use of drugs or medications to make a lame horse comfortable enough to race is no longer an acceptable practice. The use of corticosteroids two days before a race has been prohibited since 2005 and anabolic steroids were banned in Kentucky in 2008. The safety of horses and jockeys is a priority for the KHRC veterinarians and the protocol is the most comprehensive in the world. Kentucky shares information with a group of international sport regulators and gets information in a timely manner that allows the commission to prepare responses as threats emerge. Kentucky is serving as a model to other racing jurisdictions, both domestic and international.

Regarding 810 KAR 1:018, Medication; testing procedures; prohibited practices, Dr. Scollay said there were four substantial changes to the regulation. The first addresses the Phenylbutazone threshold, which is five micrograms. The threshold is to be reduced to two micrograms per milliliter of serum. This is a model rule recommendation from the Racing Medication Testing Consortium (RMTC) and the Association of Racing Commissioners International (RCI). This will make Kentucky consistent with other racing jurisdictions. Regulatory veterinarians had concerns that a horse examined in the morning could be under the influence of medications that could mask their condition and make an accurate assessment of the horses ability to race difficult. Dr. Scollay arranged to have samples taken at the time of the morning exam and found that 25 percent of the horses tested were positive for levels of Phenylbutazone greater than five micrograms. This level is recognized as the lowest amount that will have an effect on the horse. Therefore those horses with levels greater than five were under the influence of a non-steroidal anti-inflammatory.

Allowing only KHRC veterinarians to administer Furosemide on race day is another RCI and RMTC recommendation model rule. This recommendation has been endorsed by the American Association of Equine Practitioners and is being practiced in New York, Delaware, and Canada. California is preparing to implement it as well. This has been a standard practice in Kentucky in Standardbred racing since 1988.

The third change is the elimination of adjunct bleeder medications. Kentucky is one of the few states that permits adjunct bleeder medications. It is also a RCI/RMTC model rule to withdraw them. There is no scientific evidence to support their effect. The American Association of Equine Practitioners also endorses this change.

The fourth change is to eliminate a period of ineligibility of a horse that is withdrawn from Furosemide to race in a specific event. Currently, if a horse goes off of Furosemide there is a 60 day waiting period before it is eligible to race again. The proposed change is being made in anticipation of the Breeders Cup, which this fall is requiring that two-year olds race without Lasix. Therefore, if a horse races in the Breeders Cup and comes back to Kentucky to race later in the fall, the horse will be able to have Lasix without penalty. This prevents a horse without Lasix from competing against horses that are allowed to have Lasix.

In response to a question from Senator Webb, Mark Guilfoil said any training center that turns in “official works” is under the jurisdiction of the KHRC. He agreed to a change in the language in the proposed regulation to “official training center.” Susan Speckert, General Counsel for the KHRC added



that striking language on page four made the regulation consistent with the penalty regulation. Ms. Speckert said the syringe language is struck because the trainer is no longer administering the medication.

In response to a question from Representative Floyd, Dr. Scollay said with respect to performance enhancement and masking of pain, there is a difference and they are two different issues. When a trainer uses Phenylbutazone, the issue is the welfare of the horse. If the horse is lame and is given medication to relieve the pain but not fix the underlying cause of the lameness, the horse is put at risk for further injury.

In response to a question from Representative Osborne, Dr. Scollay likened a KHRC veterinarian giving a horse an injection on race day to a patient in a hospital getting an injection by a third party that a doctor has signed off on. Dr. Scollay added that she was not aware of any adverse effects to using adjunct bleeder medicine. Representative Osborne went on to say that he was concerned, as are other horseman, that this practice would limit the number of veterinarians allowed on a racetrack. He said that stopping the cheaters, instead of the trainers who use Lasix, should be the focus of the commission.

In response to a question from Representative Clark, Ms. Speckert responded that two other states have signed on with the International Racing Compact legislation that was passed in the 2012 session. However, six states must become signatory for the law to take effect. Dr. Scollay said that California has changed its regulations to reflect the recommendations of RCI and RMTC, as have New York, Delaware, and Pennsylvania.

Representative Clark told the commission to consider using a contract instead of hiring more personnel. He advised consideration of the veterinarians who worked for the owners and implementing guidelines for performance of race day injections.

Senator Thayer said the changes in the regulation were about protecting the safety of the equine athlete, competing at the peak of performance. These athletes are being wagered on by the public who deserve to know that the sport in Kentucky is being conducted with integrity and with minimal medication intervention. Kentucky is unique to have the Equine Drug Research Council (EDRC) made up of horseman, officials from racetracks, veterinarians, and a legislative representative. All regulations regarding medication start with the EDRC, and if approved, they go to the KHRC. Kentucky is a leader on medication. This regulation is about veterinary access--human access to these equine athletes during the four hours leading up to the race.

Rick Hiles, President of the Horsemen's Benevolent and Protective Association, Inc., also the Vice-President of the National Horsemen's Protective Association, and a member of the EDRC,

said he did not vote in favor of the regulations. There was a lengthy discussion about the regulations at the EDRC in which he agreed to vote for the regulations because the EDRC wanted to send a unanimous vote of approval to the KHRC. His vote was based on the assumption that the EDRC would not ban the use of Lasix on race day. In the past Phenylbutazone (Bute), an anti-inflammatory, was allowed to be give on the morning of a race. In a spirit of cooperation horsemen agreed not to administer Bute 24 hours before race day. After 40 years of training horses it is his opinion that giving a horse Bute 24 hours before the day of a race is not going to mask symptoms to make the horse appear sound. The five microgram level is safe and allows trainers to give two, one milligram tablets the day before the race and stay under the level. State stewards have offered that 92 percent of the horses tested have results under two percent. Very few reach the five percent level. The allegation that veterinarian checks the morning of the race are hampered by medication given the day before is hard to fathom because, as Dr. Scollay testified, the Bute only has an effect for about six hours.

The adjunct bleeder medicine does work. There is no scientific data to prove that it does not work. This medication, for horses that hemorrhage and bleed, has an effect that allows them to race at their normal level.

Regarding the state veterinarians administering Lasix, Mr. Hiles said the HBPA does not agree with the using KHRC veterinarians to inject a trainer's horse. The Trainer Responsibility Rule holds the trainer strictly liable if one of his horses tests positive for a banned substance.

John Piehowicz, DVM, a private veterinarian who has worked at Turfway Park for the last 17 years, said he has never had a race day violation. It is offensive to him to imply that he is not qualified or does not have the integrity to administer Lasix to his client's horses. Transferring this duty to commission veterinarians takes a private economic matter to public means without public interest being demonstrated. Constitutional attorneys agree it fits a three prong criteria of the taking clause. The Kentucky Practice Act clearly states that in order to administer prescription medication there must be a veterinary patient-client relation. The commission veterinarians will not have this relationship.

Clara Fenger, DVM, said she has a master's degree in equine exercise science from Ohio State University, a Ph. D. from the University of Kentucky, and 15 years of experience working part-time for the KHRC. Prostaglandin E2 (PGE), a potent inflammatory mediator, is elaborated in everyone when undergoing exertion or exercise. This goes up into joints and is a mediator of the ultimate degeneration of cartilage in joints that leads to osteoarthritis. Phenylbutazone administered at 4.4 milligrams per kilogram, which is the 2

gram dose, per 1,000 pounds of animal weight, prevents the production of PGE for 24 hours after administration. There is no pain killing effect at this time. Therefore this medication is safe and effective for the prevention of inflammation and joint damage to the equine athlete. Not all animals fall under the 2 milligram level at 24 hours. A study conducted at the University of Pennsylvania shows that 5 percent of horses receiving this dose intravenously fall over the level. This makes this regulation inappropriate with the current wording.

Representative Keene noted that this was a very contested regulation. He asked for a motion to find the regulation deficient. Senator Webb made the motion, which was seconded by Representative Clark. Senator Thayer asked for a roll call vote. There were 19 Yes votes, 1 No vote, and 4 Pass votes. Regulation 810 KAR 1:018 was found deficient and returned to the KHRC. Also, 811 KAR 1:090 is identical to the previous regulation, although it applies to Standardbreds. Senator Webb moved to find this regulation deficient, and it was seconded by Senator Harper-Angel. Regulation 811 KAR 1:090 was found deficient by voice vote.

Representative Keene opined that there was a large divide in the horse community and advised them to work together to come to compromise. Senator Thayer said there are other states that have implemented this regulation, which is a national model rule. He said that the federal government will take over if the state continues to intervene in delaying changing regulations. He encouraged Governor Beshear to use his executive authority as Governor to implement these regulations as emergency regulations in order to have them in place for the beginning of the Turfway meet in September.

#### **Kentucky Lottery Corporation**

Arch Gleason, President and CEO, told the committee that the Kentucky Lottery Corporation's (KLC) mission was to act responsibly and offer the best games to the Commonwealth.

Since its inception the lottery has received just under \$14 billion in sales. About \$3.71 billion is returned to the Commonwealth. \$8.33 billion has been paid to winners, \$871.2 million paid to retailers, and \$964.0 million went to operating expenses. KEES received \$8.3 million. Last year, sales improved by approximately five percent, and next year's projection shows similar improvement.

During fiscal year 2008, the legislative session added a mandate that specifically required 28 percent of lottery revenue to be returned to the General Fund based on sales. The lottery made changes to conform and has improved profitability. However, the KLC did not keep pace with the growth rate of other lotteries in the United States. In the 2012 session the General Assembly removed this provision and it is the feeling of KLC that this will allow more money to be returned to the

General Fund.

Regarding the distribution of a carve-out fund, 22 percent, was set aside for higher education beyond the scholarships program. This percentage is not in effect next year, therefore the full \$211 million will be available for the scholarship and grant programs.

The KLC is adding enhancements to its product and restoring cash prizes to players with instant tickets. A survey revealed that players did not like the free ticket, but would rather have cash. The product mix has been contemporized with a player reward program. Players can enter non-winning tickets at kylottery.com and accumulate point to cash in for merchandise in the Player's Fun Club-Points for Prizes store as well as enter top prize drawings. This program is expected to increase sales between two and four percent. This program, with the prize store, is expected to launch this fall. Three other state lotteries, Arizona, Iowa, and Tennessee offer this program and North Carolina and Missouri will offer Points for Prizes this summer.

In response to a question from Representative Floyd, Mr. Gleason said participation has gone down in the number of tickets purchased. However, there has been a 30 percent net revenue increase in the game. By allowing the jackpot to grow more rapidly more people are attracted to play the game.

Representative Keene reminded members that the next committee meeting will be on September 14, 2012, at Southern Wine and Spirits in Louisville, Kentucky.

There being no further business to come before the committee the meeting was adjourned at 11:46 AM.

## **INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT**

Minutes of the 2nd Meeting  
of the 2012 Interim  
August 22, 2012

### **Call to Order and Roll Call**

The second meeting of the Interim Joint Committee on Local Government was held on Wednesday, August 22, 2012, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Steve Riggs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Steve Riggs, Co-Chair; Senators Walter Blevins Jr., R.J. Palmer II, Dan "Malano" Seum, and Johnny Ray Turner; Representatives Julie Raque Adams, Ron Crimm, Mike Denham, Ted Edmonds, Richard Henderson, Adam Koenig, Stan Lee, Michael Meredith, Arnold Simpson, Kevin Sinnette, Rita Smart, and Jim Wayne.

Guests: Alison Lundergan Grimes and Noel Caldwell, Secretary of State's Office; Adam Edelen, Tom Bennett, Libby Carlin, Will Carle, and Nathan Cryder, State Auditor of Public Accounts' Office; Bert May, Kentucky League of



Cities; Vince Lang, Kentucky County Judge/Executives' Association; Bryan Alvey, Kentucky Farm Bureau; and Sara McGown, Louisville Metro Government.

LRC Staff: Mark Mitchell, John Ryan, Joe Pinczewski-Lee, Jessica Causey, and Cheryl Walters.

#### **Approval of Minutes**

Upon the motion of Representative Crimm, seconded by Representative Koenig, the minutes of the June 27, 2012 meeting were approved.

Representative Riggs announced that the Committee's next meeting will be held on Thursday, September 27, 2012, instead of its regularly scheduled day of the fourth Wednesday.

#### **Uniform Occupational License Tax Reform required by 2012 HB 277**

Representative Riggs commented that he wanted to give Representative Santoro credit for coming up with the idea to have a uniform occupational license tax form. He thanked the Secretary of State's Office for undertaking this endeavor and complimented its efforts.

Secretary of State Alison Lundergan Grimes told the committee that her office currently oversees 728,054 entities that are organized and registered in Kentucky. Of that 728,054, 192,728 are active companies that have filed forms. There are more than 200 distinct taxing districts in Kentucky.

2012 HB 277 requires a central location for all occupational license tax forms. It requires each tax district that imposes an occupational license tax on net profits or gross receipts to submit the following items to the Secretary of State before November 1, 2012: electronic or hard copy of its occupational license tax return form or forms; accompanying instructions; and a copy of its occupational license tax ordinance. All information will then be posted by the Secretary of State on either the state's One-Stop Portal or another public website maintained by the Secretary of State.

HB 277 also requires the Secretary of State to consult with Kentucky Association of Counties (KACo), Kentucky League of Cities (KLC), Kentucky Occupational License Association (KOLA), Kentucky School Boards Association (KSBA), Kentucky Certified Public Accountants (CPA's) and business groups to adopt a "uniform collection form." The uniform collection form is currently in development and not required until 2017. Her office will be meeting with all parties involved in October to review progress.

Secretary Grimes also updated the committee on the creation of the One-Stop Business Portal. The Secretary of State's Office, Finance and Administration Cabinet, the Cabinet for Economic Development, and the Commonwealth Office of Technology shall jointly establish a one-stop electronic business portal that shall serve as a single, unified entry point for business owners to access and complete initial and ongoing state services and requirements in relation to

the creation of ongoing operation of a business located in the Commonwealth. The Kentucky Business One-Stop Portal was launched a year earlier than expected and has been completed.

The Secretary of State noted issues for the 2013 legislative session include: (1) The Kentucky Uniform Fraudulent Conveyance Act. This act will update Kentucky's very dated fraudulent conveyance act which is currently being drafted by an ad-hoc committee of attorneys; (2) Kentucky Revised Model Nonprofit Corporation Act. The current nonprofit corporation act is antiquated, and piecemeal efforts at updating will not be sufficient to bring it current with modern requirements; and (3) Kentucky Business Entity Transactions Act. The Act is currently being outlined and will combine in a single chapter, all of the rules governing mergers, conversions, share exchanges and other organic transactions involving business organizations. This likely will be ready for submission to the General Assembly in 2014.

In response to a question from Representative Denham, Secretary Grimes stated that not all entities are required to file forms. Sometimes they dissolve or merge but they stay in the system. In response to another question from Representative Denham, Secretary of State Grimes said the entities are not removed from the system in the future.

Representative Crimm complimented the Secretary of State's website, saying that it was very easy to use.

#### **Progress of Special District Survey and Meetings with Special Districts**

Auditor of Public Accounts Adam Edelen informed the committee that he had just returned from 15 town hall meetings in the area development districts around the state. Surveys have been sent to all county judges, county clerks, and sheriffs in the state. They have helped identify special districts that his office did not know existed. Surveys were sent to over 1,200 special districts, which does not count the ones that have just been identified. To date, 900 special districts have responded. The current system of special districts is byzantine and in need of reform because the system does not let the people know how their money is being spent. No one knows for sure how many districts there are, where they are, who runs them, how much money flows through them each year, how much money they have and who is complying with existing reporting requirements. The Auditor's Office will provide this information by the end of the year and will also provide recommendations for policy changes. The system does not serve the board members either.

Representative Riggs commented that in his opinion, those special districts that have not returned the survey or are ignoring it, would be the ones that he would be interested in auditing. Mr. Edelen agreed.

In response to a question from

Representative Riggs, Mr. Edelen replied that his office is not in the position yet to identify those special districts that may or may not have public integrity issues. The system needs to be modified in order to have the ability to make baseline evaluations of special district operations.

In response to a question from Representative Smart, Mr. Edelen said all taxpayers will be able to go to the Auditor of Public Accounts' website and access a database as a way to be kept informed of special district operations.

In response to a question from Representative Adams, Mr. Edelen stated that he envisions the report to identify the special districts, how they operate, whether they comply or not, and a list of recommendations.

Senator Thayer commented that he commits to the Auditor that he will file a bill in 2013 relating to the accountability of special districts. Legislation should include accountability, transparency, disclosure, and oversight for special districts. The committee needs to engage with the Kentucky Association of Counties and the Kentucky County Judge/Executive Association, and would welcome the Auditor's policy suggestions.

Mr. Edelen told the committee that this endeavor is not a fix-all but will be a bold first step.

Representative Simpson commented that accountability should be the key part in the legislation.

Representative Wayne commented that Senator Thayer's bill would compliment what the Auditor's Office is doing. In response to a question from Representative Wayne, Mr. Edelen answered that the Bridges' Authority is a special district and would be included in recommendations that his office would make.

In response to a question from Representative Koenig, Mr. Edelen said he would have to get the information for him regarding the special districts' compliance rates in Northern Kentucky.

There being no further business, the meeting was adjourned at 11:20 a.m.

## **INTERIM JOINT COMMITTEE ON STATE GOVERNMENT**

Minutes of the 2nd Meeting of the 2012 Interim August 22, 2012

#### **Call to Order and Roll Call**

The second meeting of the Interim Joint Committee on State Government was held on Wednesday, August 22, 2012, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Damon Thayer, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Mike Cherry, Co-Chair; Senators Walter Blevins Jr., Jimmy Higdon, R. J. Palmer II, Dorsey Ridley, and John Schickel; Representatives Linda Belcher, Dwight Butler, Larry

Clark, Leslie Combs, Tim Couch, Will Coursey, Joseph Fischer, Jim Glenn, Derrick Graham, Mike Harmon, Melvin Henley, Martha Jane King, Jimmie Lee, Mary Lou Marzian, Brad Montell, Lonnie Napier, Sannie Overly, Darryl Owens, Tanya Pullin, Tom Riner, Bart Rowland, Steven Rudy, Sal Santoro, John Will Stacy, Tommy Thompson, Tommy Turner, Jim Wayne, and Brent Yonts.

Guests: William Thielen, Kentucky Retirement Systems; Representative Jim Gooch.

LRC Staff: Judy Fritz, Brad Gross, Alisha Miller, Karen Powell, Greg Woosley, and Peggy Sciantarelli.

#### **Approval of Minutes and Opening Comments**

The minutes of the June 27 meeting were approved without objection, upon motion by Representative Rudy. Senator Thayer and Representative Cherry reported briefly on the August 21 meeting of the Kentucky Public Pensions Task Force, which they co-chair.

#### **Medicare Plan for State Retirees**

The guest speaker was William Thielen, Executive Director, Kentucky Retirement Systems (KRS). He provided three handouts to the Committee: financial analysis charts of projected savings based on the provision of Medicare Advantage plans versus the current KRS self-insured Employer Group Waiver Plan; Medicare Advantage Key Points; and charts comparing benefits and member costs for the proposed Medicare Advantage plan and the current self-insured plan.

Mr. Thielen explained that Medicare-eligible retirees—approximately 34,000 "over 65" retirees plus those eligible for Medicare as a result of disability—have been covered by KRS' self-insured plan since 2006. About a year ago, the KRS Board's Retiree Health Committee authorized issuance of requests for proposals (RFPs) for alternative health plans in order to determine whether there might be a more cost effective way to provide those retirees' health insurance benefits, while maintaining the current benefits level. The Retiree Health Committee voted July 9, 2012, to recommend to the full Board that KRS move to a Medicare Advantage (MA) plan offered by Humana Insurance Company. The Board deferred action on the recommendation for several weeks to allow time to inform retirees statewide about the proposal. Financial analysis by the KRS actuary, Cavanaugh Macdonald, projected cost savings of \$45-\$67 million over the next two years by moving to the MA plan. Based on Humana's commitments and the funding status of the systems, the Board voted on August 6 to implement the MA plan for Medicare-eligible retirees, effective January 1, 2013. Benefit levels offered by Humana match benefits provided under the current self-insured plan and offer additional benefits such as the SilverSneakers wellness program. Cost savings will be shared by retirees and the KRS Health Trust, approximately on a 50/50 basis, depending



on the actual rates that will be set. The Board, however, is expected to adopt the rates to which Humana has committed. Under the new plan, Medicare-eligible retirees who pay all or a portion of their premium will realize a substantial cost reduction, and the Health Trust will save from \$20-\$35 million.

Some KRS Board members voted against the change, preferring to wait until the impact of federal health care reform is evident, but the majority of the Board was comfortable with the two-year savings. Humana is able to offer the favorable rates because of a sizeable federal subsidy in which pharmaceutical companies pay half the cost of the Medicare “donut hole” [Medicare Part D coverage gap]. Under the Affordable Health Care Act, the subsidy is expected to be reduced in April 2013. Humana will honor its rate commitment for two years, regardless of what happens at the federal level. In the second year of the new plan, Humana proposes that combined premium and administrative costs will not increase more than 12 percent—which will still result in a projected savings of \$18 million. If deemed necessary, KRS has the flexibility to later make application to return to the self-insured program.

Representative Lee said that most doctors in his area do not accept Medicare Advantage, and he is concerned whether retirees will be able to use their current primary care physicians. Mr. Thielen said that the MA plan is a custom-designed PPO plan. Humana has assured that reimbursement rates will remain the same for any physician who accepts Medicare and that it will not be necessary to shift primary care physicians. Representative Lee requested that this commitment be provided in writing to the Committee. Mr. Thielen said he would be glad to provide a copy of the contractual language and relevant documentation.

Representative Lee questioned how retirees’ choice of doctors might be affected if the federal subsidy is lost and KRS again self-insures. Mr. Thielen explained that the Kentucky Teachers Retirement System (KTRS) implemented Humana’s MA plan in 2006. According to KTRS executive staff, they have had very good experience and saved about \$67 million. There was initial non-participation by some doctors in Florida who thought the KTRS plan was a traditional MA plan, but the problem was resolved when Humana sent a team to meet with those doctors. Humana advised the KRS Retiree Health Committee that they have resolved this type of problem in Kentucky and that 99 percent of all Kentucky physicians accept the Humana MA plan; if not, Humana will reimburse the retiree directly. Representative Lee said his concern that retirees may need to change physicians will not be allayed until he sees a written guarantee from Humana.

Representative Cherry said he understands Representative Lee’s concern and hopes that the desired assurance

can be provided. Mr. Thielen noted that the “Medicare Advantage Key Points” handout addresses questions about provider acceptance. He repeated that KRS has contractual language assuring that retirees will not have to change primary care physicians.

Answering questions from Representative Pullin, he said that the network of out-of-state providers serving Kentucky’s border areas will remain the same but that retirees will not be restricted to Humana’s network. KRS and Humana are planning a series of 18-20 educational seminars around the state during the next few weeks. Open enrollment will commence in October.

Representative Wayne said it is important that the plan complies with the new federal mental health parity law, which requires persons receiving mental health services to be reimbursed at the same rate as for medical services. The Humana plan, however, limits in-patient mental health care to 190 days, and there is a disparity in co-pays for mental health and medical care. Mr. Thielen said there have been several compliance audits, and it is his understanding that the plan complies with federal law. He agreed to check into this issue and advise Representative Wayne.

Responding to concern raised by Representative Graham about possible revisions to the Affordable Care Act, Mr. Thielen said that the projected savings are based on rate commitments by Humana for a two-year period, regardless of what might happen at the federal level. He cannot speak for individual board members but believes that the Board felt compelled to take advantage of the savings offered under the Humana plan. If changes at the federal level should adversely impact the plan, KRS has the flexibility to return to the self-insured plan.

Responding to questions from Representative Stacy, Mr. Thielen said that the only concerns he has heard from retirees related to not wanting to have to change physicians or be restricted to Humana’s provider network. Retirees who pay part of their premium welcomed the savings under the new plan. Prior approval requirements, in-hospital care, and pharmacy benefits remain the same. A key issue that led to selection of Humana was that the Board would be able to retain control of the drug formulary, which has been a source of significant savings to KRS’ overall health insurance program. The other respondent to the RFP would not concede control of the formulary to the Board.

When Representative Lee expressed concern whether Humana will reimburse its contracted providers at the same level as the current self-insured plan, Mr. Thielen said that physicians will be reimbursed, with or without a contract—as has been done for the past six years in KTRS’ Humana plan. Savings will be achieved from the federal subsidy. Representative Lee said he has grave doubts that out-of-network physicians will be paid at the

same rate as those in network, which would result in many primary care physicians not contracting with Humana. Mr. Thielen again pointed out KTRS’ good experience with its similar MA plan. He offered to bring a Humana representative to a future meeting if the State Government Committee so wishes.

Chairman Thayer agreed with a suggestion by Representative Graham to have committee staff request information from KTRS about its MA plan with respect to the issues and concerns discussed today.

Responding to questions from Representative Owens and Representative Marzian, Mr. Thielen explained that the current self-insured program is supplemental to Medicare but that the new MA plan is a fully insured program under Medicare Part-C. All retirees will automatically be rolled into either the MA plan or KRS’ “medical only” plan. There will be a limited opt-out provision under certain circumstances.

Representative Stacy emphasized the importance of knowing whether the projected savings under the MA plan are due to the federal subsidy and not cuts in provider fees. Mr. Thielen said, to his knowledge, there will be no cuts to providers and that Humana will reimburse all providers the same, whether in network or out of network. Senator Thayer asked Mr. Thielen to provide a copy of the Humana contract and all relevant documentation to Judy Fritz, State Government Committee staff administrator. Mr. Thielen said he would be happy to do so.

When Representative Owens inquired about doctors who accept Medicare but might not accept the Humana plan, Mr. Thielen said it is his understanding that Humana will meet with those doctors to explain that it is not a typical Medicare Advantage plan. In KTRS’ experience, most doctors agreed to accept the Humana plan after learning it is a fully insured plan.

Representative King said she is concerned about seniors recouping their money if their doctor will not bill Humana and they have to submit claims on their own. She asked about KTRS’ experience in this regard. Mr. Thielen said he had not discussed this issue with KTRS but, according to Humana, only about one percent of doctors in the KTRS plan have refused to bill Humana.

When Representative Rowland asked about retirees who choose to opt out of the Humana MA plan, Mr. Thielen explained that those retirees would go into the KRS health insurance “exception” plan. Representative Henley noted that one of the KRS handout states that retirees who are not satisfied with the Humana plan can elect to return to original Medicare during the KRS open enrollment period. Mr. Thielen said this information should have been revised; based on recommendations from Humana, the Board decided to limit the opt-out provision to certain circumstances.

With agreement of the Chair, Representative Lee requested that KRS provide the Committee with a copy of the exceptions that allow retirees to elect the traditional self-insured plan. He said he would also like to know the claims and billing procedure to be followed if a doctor does not accept the Humana plan. Mr. Thielen noted that this information is included in the contract documents that he will be providing.

Mr. Thielen briefed the Committee on the recent cost-savings decision of the KRS Board to eliminate the dependent health insurance subsidy for under-65 retirees. The subsidy, created by the General Assembly in 2004 health insurance reform legislation, cost the Health Trust \$19.6 million last year. Language in the 2012 budget bill made the subsidy discretionary on the part of the Board rather than mandatory, as it had been since 2005. Due to the funding status of the systems, the Board decided not to continue funding the subsidy, beginning January 1, 2013. As a result, the monthly health insurance premium increase for affected retirees will range from about \$132 to \$372 per month. An estimated 5,300 retirees have been receiving the subsidy.

#### **Adjournment**

With the business concluded, the meeting adjourned at 2:15 p.m.

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

Minutes of the 3rd Meeting  
of the 2012 Interim  
September 4, 2012

#### **Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Transportation was held on Tuesday, September 4, 2012, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Hubert Collins, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators David Givens, Jimmy Higdon, Ray S. Jones II, John Schickel, Brandon Smith, Damon Thayer, Johnny Ray Turner, and Mike Wilson; Representatives Linda Belcher, Kevin D. Bratcher, Tim Couch, Will Coursey, David Floyd, Keith Hall, Richard Henderson, Melvin B. Henley, Jimmie Lee, Donna Mayfield, Charles Miller, Terry Mills, Rick G. Nelson, Tanya Pullin, Marie Rader, Steve Riggs, Sal Santoro, John Short, Arnold Simpson, Fitz Steele, Jim Stewart III, Tommy Turner, and Addia Wuchner.

Guests: From the Kentucky Transportation Cabinet: Mike Hancock, Secretary; Tammy Branham, Executive Director, Office of Budget and Fiscal Management; Russ Romine, Executive Advisor, Department of Highways; Brian Wood, Plantmix Asphalt Industry of Kentucky.

LRC Staff: John Snyder, Brandon



White, Dana Fugazzi, and Jennifer Beeler  
**Approval of Minutes**

Representative Miller made a motion to approve the minutes from the July 17, 2012 meeting as submitted. The motion was seconded by Representative Pullin and adopted by voice vote.

#### **Road Fund Update**

Tammy Branham, Executive Director, Office of Budget and Fiscal Management gave a brief update on the Road Fund. Ms. Branham stated that Fiscal Year 2012 closed exceeding the Consensus Forecasting Group's estimate by \$31.3 million. The official estimate for Road Fund revenue was \$1,412.5 billion; the total revenue collected for FY 2012 was \$1,443.8 billion.

In response to Representative Collins, Ms. Branham stated that compressed natural gas used for motor vehicles is taxed as a special fuel. She explained that CNG is under the same tax structure as the motor fuels collection.

In response to Representative Lee, Secretary Hancock explained the Cabinet does not have a specific proposal on how to tax other alternative fueled vehicles, such as electric vehicles, that are not currently being taxed for road use.

Ms. Branham explained that during the Fiscal Year close out process \$50.3 million was deposited into the Surplus Expenditure Plan. She stated that in comparing FY 2012 to FY 2011 there was fiscal growth in each of the three categories, Motor Fuels receipts had an increase of 7.8 percent, Motor Vehicle Usage receipts had an increase of 9.2 percent, and other taxes had an increase of 5.6 percent, which led to an overall increase of 7.8 percent from FY 2011. She further stated that the projected Road Fund estimates are \$1,498.9 billion for FY 2013 and \$1,568.0 billion for FY 2014.

In response to Representative Collins, Ms. Branham stated that the Road Fund Revenues for July 2012, the first month of the new fiscal year, increased approximately \$117 million over July of 2011, a 3.5 percent growth.

#### **MAP-21, Federal Highway Funding Reauthorization**

Russ Romine, Executive Advisor, Department of Highways explained the previous federal highway funding bill, SAFETEA-LU, expired on September 30, 2009. Since that time, there have been ten extensions reauthorizing federal highway funds for 34 months. The new federal reauthorization bill, known as the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21), became law on July 6, 2012. The law authorizes and funds the federal surface transportation program for 27 months; new provisions take effect on October 1, 2012, which is the state of the federal fiscal year. The bill includes \$18.8 billion in general fund transfers into the Federal Highway Trust Fund.

Mr. Romine emphasized one of the main differences between SAFETEA-LU and MAP-21 is that MAP-21 consolidates the previous twelve funding categories

into six categories: National Highway Performance; Surface Transportation Program; Transportation Alternatives; Metropolitan Planning; Congestion Mitigation; and Highway Safety Improvements.

A key element to MAP-21 is the institution of a performance-based, risk-based asset management plan designed to preserve and improve the condition of the national highway system by establishing performance measures and targets.

In response to questions from Representative Collins, Mr. Romine stated that MAP-21, in particular the safety program, will be more data driven, based on information that the state provides. Secretary Hancock added that there are two ways to build a sidewalk project: through a transportation alternatives project or in direct connection with an active construction project that included sidewalks.

In response to Representative Collins, Secretary Hancock stated that Transportation Cabinet staff evaluates every mile of pavement in the state of Kentucky to determine the conditions of the road and allow the Cabinet to determine where the focus of construction and repairs should be.

In response to Senator Givens, Mr. Romine stated Kentucky will receive \$614 million in FY 2012 under SAFETEA-LU and \$643.6 million in FY 2013 under MAP-21. He added MAP-21 and most of the provisions associated with it will begin October 1, 2012. Secretary Hancock explained that the recently enacted Six Year Road Plan and biennial construction plan would not be affected and that the various consolidated funding categories would mesh with the current plan. Transportation Enhancements were folded into a new "Transportation Alternative" category along with the Recreational Trails funding and the Safe Routes to Schools Program. The Cabinet will set forth the application process for these funds once more direction is received from the Federal Highway Administration.

In response to Senator Smith, Mr. Romine explained that the Cabinet will continue to monitor traffic and crash data on rural roads. If crash rates on rural roads increase over a two year period, the amount of Highway Safety Improvement funds used for projects to mitigate the dangerous situations on these roads would have to increase by at the least 200 percent. Secretary Hancock stated that, in Kentucky, high risk rural roads that have a high number of crashes, fatalities, and injuries every year have always been and will continue to be a high priority.

In response to Representative Steele, Secretary Hancock stated that the contract to repair the Eagners Ferry Bridge was approximately \$7 million. He explained the Federal Highway Administration agreed to allow Kentucky to use Federal Emergency Relief Funds for this expenditure.

In response to Representative Collins, Secretary Hancock explained

that the Federal Highway Administration will be working with the Appalachian Regional Commission to decide how to best set forth the Appalachian Highway System in the context of MAP-21.

In response to Representative Coursey, Secretary Hancock stated that typically, in the context of a federal highway act in referring to waterways and ports, Congress is generally referring to larger ports around the borders of the country, but occasionally there are discretionary funds available for inland waterways.

In response to Representative Riggs, Secretary Hancock stated that there are numerous factors that contribute to accidents on the narrow urban and rural roads in Kentucky. He explained that regardless the reason of the collision the Cabinet is doing everything it can to allow for more safety features to be added to roads to try and eliminate collisions when a vehicle departs the pavement as much as possible.

#### **Unspent Federal Earmark Funds Returned to Kentucky**

Russ Romine stated that on August 17, 2012 the United States Department of Transportation Secretary issued a directive to reallocate unobligated funding from projects earmarked for the FY 2003 to 2006 appropriations process. Nationwide, nearly 700 projects totaling \$470 million are in this category; in Kentucky, there are 18 projects, totaling \$17.5 million. A preliminary list of projects to be funded was provided to the committee and must be presented to the Department of Transportation by October 1, 2012 in order to claim the funds.

The unobligated funds on some of these projects are small sums, ranging from 44 cents to \$20. Other funds can be used to reimburse the state for funds already spend on projects. When reauthorized, these funds can be used on the original project or any Title 23 or 49 eligible projects.

In response to Representative Collins, Secretary Hancock stated that at this time there is no national emphasis on I-66. In central Kentucky, the Louie Nunn Cumberland Parkway bears signage indicating that it is the future route for I-66.

#### **Plantmix Asphalt Industry of Kentucky**

Brian Wood, Executive Director, Plantmix Asphalt Industry of Kentucky gave a brief presentation and previewed the tour of the HG Mays Asphalt plant that would follow the meeting. The asphalt industry only provides most of the material to build Kentucky's roads and employs between 4,000 and 5,000 people across the state.

With no further business before the committee, the meeting adjourned at 1:10 p.m. until the next regularly scheduled meeting on October 2, 2012.

## **INTERIM JOINT COMMITTEE ON**

## **VETERANS, MILITARY AFFAIRS, AND PUBLIC PROTECTION**

Minutes of the 3rd Meeting of the 2012 Interim August 21, 2012

#### **Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Tuesday, August 21, 2012, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Tanya Pullin, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Tanya Pullin, Co-Chair; Senators Joe Bowen, Perry B. Clark, Carroll Gibson, Vernie McGaha, Dennis Parrett, Dan "Malano" Seum, Kathy W. Stein, and Mike Wilson; Representatives Royce W. Adams, Linda Belcher, Regina Petrey Bunch, Tom Burch, Dwight D. Butler, Larry Clark, Leslie Combs, Tim Couch, Ron Crimm, Myron Dossett, Bill Farmer, Jeff Greer, Martha Jane King, Jimmie Lee, Donna Mayfield, Terry Mills, Rick G. Nelson, Tom Riner, Carl Rollins II, Rita Smart, Ben Waide, and Alecia Webb-Edgington.

Guests: Shedrick Jones, Sr., Irvin Lyons, Gail Lyons, Lloyd Davis, Emilia Cruz, and Janice Pullen, National Association of Black Veterans (NABVETS); Ken Lucas, Commissioner, Department of Veterans Affairs (KDVA); Major General Edward W. Tonini, Adjutant General, Kentucky National Guard; David Moore, Veterans' Employment Training Service (VETS); David Kuhn, State Program Coordinator, Local Veterans Employment Representative, Lee White, State Program Coordinator, Disabled Veterans' Outreach Program, Kentucky Office of Employment and Training; John Savona, Plant Manager, Ford Motor Co. Assembly Plant; Mike Price, Toyota Motor Mfg. Kentucky, Inc.; Jacob Fuller, Senior Airman (E4), Kentucky Air National Guard; Firefighter/EMT, Northern Kentucky/Cincinnati International Airport; Michael Krause, KCTCS; Brandon Edwards, Union College; Wayne Pfeffer, Director, Judy Williams, Public Affairs Officer, Tammy Holdcroft, Facility Planner, Robley Rex Louisville Veterans Medical Center; Jim Thompson, Education and Workforce Development Cabinet; Steve Bullard, Department of Military Affairs/Kentucky National Guard (DMA/KYNG); Margaret Plattner, Deputy Commissioner, Stacy Shane, Marlene Youngblood, Kentucky Department of Military Affairs; and Carlos Pugh, Joint Executive Council of Veterans Organizations.

LRC Staff: Erica Warren, Tiffany Opii, Kristopher Shera, and Rhonda Schierer.

#### **Minutes**

Representative Burch moved to adopt the July 12, 2012, meeting minutes. Representative Mills seconded the motion. The minutes were adopted.



### **National Association of Black Veterans (NABVETS)**

Shedrick Jones, Sr., State Commander, NABVETS, introduced his guests, Janice Pullen, Retired Air Force and inductee into the NABVETS, Irvin Lyons, thirty-one year retired Army Vietnam Veteran, Commander of Chapter Fort Knox NABVETS, and Senior Vice Commander of the Kentucky State Military Order of Purple Heart.

Mr. Jones discussed a five year plan for the NABVETS. The organization has three chapters and would like to expand three more chapters in the Commonwealth. He asked the committee members to give him information on which areas they would like to establish new chapters. NABVETS would like to assistance with identifying Dixie Highway in Louisville as Patriot Parkway. He stated that 16 private cemeteries with veterans need to be brought to a higher standard. An annual Veterans State Fair Day on was started on August 20, 2012.

Commander Lyons spoke to the committee about submitting legislation on making Kentucky a Purple Heart State. The Governor has proclaimed the state as a Purple Heart State for one day, but he would like the designation to be permanent. He has a campaign of making 150 cities within the Commonwealth a Purple Heart city, and there are 32 to date. Chair Pullin stated that South Shore, Kentucky, is a Purple Heart City. She encouraged members to participate and take the information to their hometowns.

Mr. Lyons introduced Gail Lyons, President of the Kentucky State Ladies Auxiliary for the Military Order of Purple Heart and Mr. Lloyd Davis, MCOIC, of Missing in Action Homefront. Chair Pullin thanked them for their military service and their service now.

### **Hiring Kentucky Heroes**

Ken Lucas, Commissioner, KDVA, stated that the purpose of Hiring Kentucky Heroes is to employ veterans who return home from service. Bill Riggs, Deputy Secretary, Department of Education and Workforce Development, spoke on his part in the collaboration of agencies that work on veterans issues and hiring. He stated that the Department of Labor has the agreement that the resources come through the Department of Education for veterans outreach. Mr. Riggs's department put together an initiative labeled by Governor Beshear to be Hiring Kentucky Heroes. He stated that Hiring Kentucky Heroes is a partnership among Education Development Cabinet, the Kentucky Committee for Employers' Support for Guard and Reserve, Kentucky National Guard, the US Department of Labor Veterans Employment and Training Services, Kentucky Department of Veterans Affairs, Kentucky Community and Technical College System, the Kentucky Cabinet for Economic Development, Kentucky Chamber of Commerce, the Small Business Administration, the Kentucky Small Business Development

Center, the Yellow Ribbon Reintegration Program, and the University of Louisville Office of Military Affairs Partnerships. The direct response lately is working directly with the troops coming home from Iraq and Afghanistan. It is a collaborative effort, which makes it a better program.

Major General Edward Tonini, Adjutant General, KYNG, emphasized the importance of the Hiring Kentucky Heroes program. He stated that the National Guard has been called upon so much since 9/11, and many soldiers went on multiple deployments and were employed by the army on a regular basis. The reality is that, when soldiers returned home, they never had a real job in the private sector. Adjutant General Tonini stated that the collaboration is making a wonderful difference. Many jobs have been identified in the past six months where the soldiers can use their skills in the private sector. Adjutant General Tonini believed that there will be a day when, if a soldier says he is unemployed, it will simply be because he does not want to work.

David Moore, Veterans Program Specialist, U.S. Department of Labor, spoke on areas of responsibility that fall under the U.S. Department of Labor Veterans' Employment and Training Service. His agency provides ongoing technical assistance to veterans, National Guard, reservists, transitioning service members and employers pertaining to employment, reemployment, and military service, and acts as the administrator for competitive grants that assist reconnecting veterans with employment. In Kentucky, one program is serving to reintegrate 152 homeless veterans back into employment. The grant for \$300,000 is for one year with two additional one year renewal options. The Transition Assistance Program is an employment workshop that provides instruction and guidance on a multitude of job search and employment readiness skills such as writing, interview, and converting military experience into employment specific skill sets. His office is the administrator for the Jobs for Veterans State Grant, which is a staffing grant that allows the state to efficiently staff the employment office with Disabled Veteran Outreach Program and Local Veteran Employment Representative employees. The \$2.5 million grant includes 40 staff—all veterans—who provide coverage for 120 counties of Kentucky. This program allows the collaborative agencies to empower and employ Kentucky veterans.

In response to a question from Representative Clark, Mr. Moore stated that his office communicates 2-3 times a week with the Helmets to Hardhats and other apprenticeships.

In response to a question from Senator Stein, Mr. Moore stated that his office offers benefits to WWII veterans. The program was created in 1944.

David Kuhn, State Program Coordinator, Local Veterans' Employment Representative Program, Kentucky Office

of Employment and Training, spoke about on LVER program. He pointed out that the map given to each member shows where various offices working in the Hiring Kentucky Heroes program are located, along with names and contact information. A copy of the map is a part of the official record located in the Legislative Research Committee Library. Mr. Kuhn's office gives these maps to members of the National Guard when they return from deployment. The local veterans' employment representative is the face of the veteran to a business community. The primary function to that LVER is to talk to businesses about hiring veterans and the skills required to work for them, and the federal and state dollars that come with that veteran. Businesses get a tax break for hiring certain types of veterans and on the job training programs that will pay half the salary of the veteran for up to six months.

In response to a question from Senator Gibson, David Kuhns stated that the grant is \$2.4 million for getting veterans employed for this fiscal year.

Lee White, State Program Coordinator, Disabled Veterans' Outreach Program, Kentucky Office of Employment and Training, spoke about the program. He stated that a Disabled Outreach Specialist provides intensive services to meet the employment needs of disabled veterans and other eligible veterans with maximum emphasis on those who are economically and educationally disadvantaged. Outreach includes Kentucky Department of Veterans Affairs Medical Centers, veterans service organizations, homeless shelters, and corrections. The program provides vocational guidance to eligible veterans in need of intensive services. DVOP also works with disabled veterans who have completed training through the vocation rehabilitation and development training program. Those veterans are seeking employment relating to their training and that would not aggravate their disabilities. There are two transitional assistant facilitators at Fort Knox who are DVOP specialists.

In response to a question from Representative Riner, Mr. White stated that DVOP works with many veterans who have criminal backgrounds.

In response to a question from Representative Burch, Mr. White discussed the Uniform Services Employment and Re-employment Rights Act. DVOP investigates to make sure a job is held and that a veteran has a right to re-employment, and also to make certain that the veteran is entitled to any promotions and/or raises that he or she would have missed due to being in the military or on active duty.

John Savona, Plant Manager, Fort Motor Co. Louisville Assembly Plant, spoke about what the Ford Motor Co. offers veterans. Mr. Savona stated that Ford has 500 veterans employed at the Louisville Assembly Plant and the Kentucky Truck Plant. Ford has a veterans network group that began in 2007. Across America, Ford

Motor Co. does local community work to help veterans. Mr. Savona stated that he was able to take the Honor Flight with 35 other WWII veterans to Washington. He accepted an award on behalf of Ford for helping veterans with employment at an event hosted by the US Navy. Mr. Savona stated that the military turns men into leaders, disciplined and loyal, fit in body and mind, and who can work under pressure, and these are the type of employees Ford would be honored to hire.

Mike Price, Toyota Motor Manufacturing of Kentucky, Inc., spoke about what Toyota offers veterans. Mr. Price stated that Toyota has two plants in Kentucky with have 7,000 team members in Georgetown, Kentucky, and 1,200 in Erlanger, Kentucky. Toyota is looking closely at doing things for veterans. The company is setting a goal of having veterans fill 7 percent of its workforce, which would equal jobs for 415 veterans in full-time positions. Toyota uses Kelly Services to help employ veterans in temporary positions, with over 100 veterans working in the facilities. Toyota met with veterans exiting the military in Louisville to see if their skill sets area match to their facility. He added that Toyota has a large number of employees who will retire in the near future, which will create many new jobs that veterans can be trained to do. Toyota is partnering with Bluegrass Community College to help train individuals for the skills needed. Toyota recently started a support group for partnering with veterans. The company is working to help non-veteran employees learn to work with veteran employees and the possible needs they may have and to break barriers they may have in communication with each other. Mr. Price added that Toyota has a wall of honor for employees who have served.

In response to a question from Representative Smart, Mr. Price stated that employees are recruited through Kelly Services for full-time but work with employment agencies and usually get medical benefits and vacations, and some are hired within 6 years.

Jacob Fuller, Senior Airman (E4), Kentucky Air National Guard; Firefighter/EMT, Northern Kentucky/Cincinnati International Airport, gave his success story of transitioning from a crash car rescuer in the National Guard to a fireman at the airport in five years and shared his gratitude for the opportunity. Mr. Fuller explained that he had taken advantage of some of the programs described today.

### **Robley Rex Louisville Veterans Medical Center Relocation**

Wayne Pfeffer, Director, Robley Rex Louisville Veterans Medical Center, spoke on the Wounded Warrior Initiative in which the hospital partnered with Fort Knox for soldiers returning home with a disability who are waiting on decisions for medical clearance either to go back to the military or to be discharged to civilian life. The Wounded Warrior program started



with two individuals helping the veterans to acclimate to society and jobs that will work with their disability or situation by working at the medical centers. The medical center now has 24 Fort Knox soldiers working in this program and hopes to eventually have 100 individuals helping.

Mr. Pfeffer gave an update on the new Robley Rex Louisville Veterans Medical Center. Mr. Pfeffer stated that the land has been purchased off of Brownsboro Road adjacent to the Waterson Expressway. The Brownsboro site became the site for a number of reasons. The center has just finished the master planning phase which is laying out the requirements of the facility and the space needed for different departments. The ultimate goal is to have it open and operational by 2018. He stated that the center is holding town hall meetings with constituents and veteran groups to get feedback on what is needed and has spoken with residents because it will be located in a residential community.

In response to a question to Representative Clark, Mr. Pfeffer stated that there were a number of problems with choosing a downtown site for the new hospital. There were many issues such as underground storage tanks, a number of streets that would require eminent domain purchases, and traffic issues, to name a few. After much research, the Brownsboro Road location was the most practical. The distance for the University of Louisville hospital is about the same distance as it is now.

In response to a question from Representative Burch, Mr. Pfeffer stated that the new hospital will have 110 beds. He also stated that a plan for the old hospital location is to possibly become a state veteran's home or assisted living facility since there is no federal veteran's nursing home in Western Kentucky.

In response to a question from Representative Mills, Mr. Pfeffer stated that the clinics that are outlying Scott and Grayson Counties, and Fort Knox will stay due to the distance to the hospital, although the center hopes to incorporate some of the local clinics into the new hospital.

#### **Administrative Regulation: 106 KAR 2:030.**

Chair Pullin stated that she had read and reviewed the administrative regulation, 106 KAR 2:030, regarding the adoption benefit program for the Kentucky National Guard and was happy with it. All members had a copy of the regulation in their meeting folders.

There being no further business, the meeting adjourned.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

Minutes of the 8th Meeting of the 2012 Interim  
August 21, 2012

### **Call to Order and Roll Call**

The 8th meeting of the Capital Projects and Bond Oversight Committee was held on Tuesday, August 21, 2012, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Jim Glenn, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Jim Glenn, Co-Chair; Senators Tom Buford and Jared Carpenter; Representatives Robert R. Damron, Steven Rudy, and Jim Wayne.

Guests: Representative John Will Stacy; Bob Wiseman, Vice President for Facilities Management, University of Kentucky; Scott Aubrey, Director, Division of Real Properties; John Hicks, Director, Governor's Office for Policy and Management; John Covington, Executive Director, Kentucky Infrastructure Authority; Robin Brewer, Financial Analyst, Office of Financial Management.

LRC Staff: Kristi Culpepper, Josh Nacey, and Christine Robertson.

#### **Approval of Minutes**

Representative Rudy made a motion to approve the minutes of the July 17, 2012 meeting. The motion was seconded by Senator Leeper and approved by voice vote.

#### **Correspondence Items**

Kristi Culpepper, Committee Staff Administrator, said that members' packets included a letter from the committee notifying the Secretary of the Finance and Administration Cabinet that the committee did not approve a new lease for the Cabinet for Health and Family Services for the Health Benefit Exchange in Frankfort. Also included was a letter from the Secretary of the Finance and Administration Cabinet notifying the committee that the Cabinet intends to proceed with the lease.

#### **Information Items**

Ms. Culpepper said that members' packets included two reports from the School Facilities Construction Commission (SFCC) detailing bonds sold with SFCC debt service participation. These bond issues were reviewed by the committee prior to issuance.

#### **Reports submitted by the University of Kentucky (UK)**

Bob Wiseman, Vice President for Facilities Management at UK, reported two purchases of medical equipment. The first was a da Vinci Surgical System, which will be paid for in cash at a cost of \$2,141,730. The second was a MEDI Simulator HPS-010 which will be paid for in cash at a cost of \$249,900. No action was required.

Mr. Wiseman reported three lease items. The first was a lease renewal with an annual cost of \$103,389 for the UK Human Development Institute. Because the renewal was executed prior to the committee meeting, no action was taken. The second lease item was a lease renewal with an annual cost of \$112,124 for the UK Center for Drug and Alcohol Research. Because the renewal was executed prior

to the committee meeting, no action was taken. The third item was a square footage modification to an existing lease for the UK Department of Social Work. No action was required.

#### **Lease report submitted by the Finance and Administration Cabinet**

Scott Aubrey, Director, Division of Real Properties, presented one new lease for the Cabinet for Health and Family Services -- Commission for Children with Special Healthcare Needs in Warren County. The lease was for 8,284 square feet at \$12.95 per square foot and an annual cost of \$107,278. In response to a question from Representative Wayne, Mr. Aubrey said that this facility would serve clients and that the safety provisions required by the Boni Bill would have been included in the specifications to bidders. Representative Wayne made a motion to approve the lease. The motion was seconded by Senator Buford and passed unanimously by roll call vote.

#### **Project report submitted by the Finance and Administration Cabinet**

John Hicks, Deputy Director, Governor's Office for Policy and Management, presented a new unbudgeted capital project for the Education and Workforce Development Cabinet. The \$2,810,000 Kentucky Statewide Longitudinal Database System Phase II project will be funded with 100 percent federal funds. Representative Wayne made a motion to approve the project. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

#### **Kentucky Infrastructure Authority (KIA) Fund A Loans**

John Covington, Executive Director, KIA, presented three Fund A loans. The first was for a loan and loan increase to the Southern Water and Sewer District in Floyd County. The loan is for the construction of a regional wastewater treatment plant, truck force, force mains, and grinder pumping stations. The loan increase is due to higher than estimated costs on the bid openings. The total amount of the loan (with increase) is \$1,094,143 and will involve a rate increase from \$39.51 to \$45.50 for the average bill. In response to a question from Representative Wayne, Mr. Covington said it will serve most of the residents of Floyd County, a mostly rural area. In response to another question from Representative Wayne, Mr. Covington said that because of the median household income for the area, the agency did receive the lowest interest rate available and will receive principal forgiveness on the loan. In response to a question from Representative Glenn, Mr. Covington said that engineering fees are not calculated with contingency funds included; they are based on the cost of constructing the project only.

The second loan was for the City of Worthington (Greenup) in the amount of \$500,000 to construct a surge basin and bring the city into compliance with its consent decree.

The third loan was for the City of Jenkins (Letcher) in the amount of \$500,000 to rehabilitate the sewer collection system in the Durham area. In response to a question from Representative Wayne, Mr. Covington said that KIA had been in contact with the engineering firm on this project to try and determine why engineering fees were higher than the recommended Rural Development scale. He said he would give the information to the committee.

Representative Wayne made a motion to approve the Fund A Loans. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

#### **KIA Fund B Loans**

Mr. Covington presented six Fund B loans. The first was a loan increase for the city of Flatwoods (Greenup) in the amount of \$58,500 for a total loan amount of \$643,500 to fund the construction of the Indian Run Church Road Storage Tank project. The increase is required due to unanticipated excavation costs and purchasing of a project site.

The second loan was for the East Pendleton County Water District in the amount of \$160,000 to paint the inside and outside of a 150,000-gallon water tower tank with epoxy paint. In response to a question from Senator Buford, Mr. Covington said he did not know how long the paint would last. In response to a question from Representative Wayne, Mr. Covington said that when KIA funds a project, they require maintenance accounts, and he did not believe that this project was originally funded by KIA.

The third loan was for the Marion County Water District in the amount of \$548,180 for the Highway 84 Water Line Upgrades Project.

The fourth loan was for the Symsonia Water District (Graves) in the amount of \$300,000 for a new storage tank and two groundwater wells.

The fifth loan was for the City of Scottsville (Allen) in the amount of \$358,000 for the construction of 2,600 linear feet of sewer line and 13 manholes to serve 73 new customers.

The sixth loan was for the City of South Shore (Greenup) in the amount of \$1,600,000 for the acquisition and assets of South Shore Water Works.

In response to a question from Representative Wayne regarding Scottsville and South Shore engineering fees, Mr. Covington said the bids on the Scottsville project came in under what was originally estimated. The engineers have committed to comply with the RD scale and will adjust their fees at the end of construction based upon any change orders. With regard to the Marion County loan, Mr. Covington said that one portion of the engineering fees was over scale and one portion was below, so the fees ended up close to scale overall. Mr. Covington anticipates that as engineering firms begin to see how KIA is breaking down engineering fees, they will adjust the fees so they are in line.



In response to a question from Representative Damron, Mr. Covington said that borrowers only draw funds they actually expend. If they do not draw the funds, the loan amount is reduced accordingly.

In response to another question from Representative Damron, Mr. Covington said the owner of the South Shore Water Works is retiring and that the utility serves people both inside and outside the city limits. The customers inside the city limits can vote for city government representatives, but those outside cannot. The system will no longer be governed by the Public Service Commission.

In response to a question from Senator Leeper, Mr. Covington said that the agencies would have to use contingency funds for something specifically related to the project. He added that KIA might have been able to exclude contingency funds from South Shore project, since it is an asset purchase, but it helps to have funds set aside just in case. Most utilities are reluctant to raise rates, so he thinks they would not want to spend contingency funds unnecessarily and then turn around and charge ratepayers.

In response to a question from Senator Buford, Mr. Covington said that KIA would typically not allow borrowers to use contingency funds to make debt service payments.

Representative Wayne made a motion to approve the Fund B loans. The motion was seconded by Representative Damron and passed with six members voting yes and one member voting no. Senator Buford explained his no vote by saying that he did not agree with the East Pendleton County Water District financing a paint job for 20 years and he has concerns with the South Shore project contingency fees.

**KIA Fund C Loan**

Mr. Covington presented one Fund C loan for the City of Worthington (Greenup) in the amount of \$600,000. The project will upgrade the existing water plant filtration system that was constructed in 1970. Representative Damron made a motion to approve the loan. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

**KIA Fund F Loan**

Mr. Covington presented one fund F loan increase for the Bullock Pen Water District (Grant) in the amount of \$163,300, bringing the total Fund F loan amount to \$1,796,300. The increase is required due to bids being higher than the original estimate due to changes in foundation design, inclusion of a generator for a pump station, and increased labor costs from the original estimate.

In response to a question from Representative Damron, Mr. Covington said he would provide staff with an update as to how much money was left in each of the KIA funds and how many requests for funds were outstanding.

Representative Wayne made a motion to approve the loan. The motion was seconded by Representative Damron

and passed unanimously by roll call vote.

**KIA Grants**

Mr. Covington presented eight Infrastructure for Economic Development grants for both coal and non-coal counties. No action was required.

**Bond Activity Reports from the Office of Financial Management (OFM)**

Robin Brewer, Financial Analyst, OFM, presented one follow-up report on a previously approved bond issue. The \$27,715,000 Eastern Kentucky University 2012 Series A refunding bond issue resulted in a net present value savings of \$2,535,199. This bond issue was approved at a previous committee meeting, and no further action was required.

**New school bond issues with School Facilities Construction Commission (SFCC) debt service participation**

Ms. Brewer said there were seven new school bond issues with SFCC debt service participation: Fairview Independent (2), Harlan County, Kenton County, Leslie County, Monroe County, and Pulaski County. None of the projects involve tax increases. Four of the items were refundings. Representative Wayne made a motion to approve the bond issues. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

**New school bond issues with 100 percent locally-funded debt service participation**

Ms. Culpepper said that seven local school bond issues were reported to the committee this month. These bond issues have 100 percent local debt service support. There were 5-cent Building Fund Tax increases associated with a \$1.97 million issue for Hazard Independent and a \$6.9 million issue for Perry County. The other issues did not involve tax increases. Three of the bond issues were refundings and the other four provided new money for capital projects. No action was required.

With there being no further business, the meeting adjourned at 1:40 p.m.

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

Minutes of the August Meeting  
August 14, 2012

**Call to Order and Roll Call**

The August meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, August 14, 2012, at 1:00 PM, in Room 149 of the Capitol Annex. Senator David Givens, Committee Member, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senators David Givens and Joey Pendleton; Representatives Robert R. Damron, Danny Ford, and Jimmie Lee.

Guests: Michael Carr, Gary Stephens, Education Professional Standards Board; Richard Dobson, DeVon Hankins, Ricky Haven, Doug Hendrix, Department of

Revenue; Michael Burleson, Board of Pharmacy; Becky Klusch, Scott D. Majors, Board of Physical Therapy; Larry Disney, Jim Grawe, Real Estate Appraisers Board; Clint Quarles, Department of Agriculture; Mona Juett, Leigh Powers, Elaine Walker, Department of Parks; Michael Haines, Steve Hoffman, Department for Natural Resources; Amy Barker, Amber Arnett; Department of Corrections; Morgan Sprague, Heather Wagers; Kentucky State Police; Dawn Bellis, Libby Simpson, Department of Housing, Buildings and Construction; Elizabeth Fiehler and Phyllis Sosa, Department for Aging and Independent Living.

LRC Staff: Dave Nicholas, Emily Caudill, Sarah Amburgey, Emily Harkenrider, Karen Howard, Betsy Cupp, and Laura Napier.

The Administrative Regulation Review Subcommittee met on Tuesday, August 14, 2012, and submits this report:

Administrative Regulations  
Reviewed by the Subcommittee:

EDUCATION PROFESSIONAL STANDARDS BOARD: Teaching Certificates

16 KAR 2:120. Emergency certification and out-of-field teaching. Michael Carr, director of certification, and Gary A. Stephens, staff attorney, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 2 to require an applicant for an emergency certificate for substitute teaching to complete the Form TC-4 using the EPSB On-line TC-4 Application System in accordance with the implementation guide incorporated by reference; and (3) to amend Section 5 to incorporate by reference the required Form TC-4. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Office of Sales and Excise Taxes: Sales and Use Tax; Administration and Accounting

103 KAR 31:170 & E. Disaster area relief sales and use tax refunds. Richard Dobson, executive director, Office of Sales and Excise Taxes, and Ricky Haven, division director, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Section 1 to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 2 and 3 and two (2) forms incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4)

to amend Section 4 to change the edition date of the two (2) forms incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Pharmacy: Board

201 KAR 2:340. Special pharmacy permit for clinical practice. Michael Burleson, executive director, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add KRS 315.035; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220. Without objection, and with agreement of the agency, the amendments were approved.

Board of Physical Therapy: Board

201 KAR 22:040. Procedure for renewal or reinstatement of a credential for a physical therapist or a physical therapist assistant. Becky Klusch, retiring executive director, and Scott D. Majors, presumptive executive director, represented the board.

Ms. Klusch announced her retirement from the board and introduced Mr. Majors as the presumptive executive director. Acting Chair, Senator Givens thanked Ms. Klusch for her years of service.

201 KAR 22:045. Continued competency requirements and procedures.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Real Estate Appraisers Board: Board

201 KAR 30:030. Types of appraisers required in federally-related transactions; certification and licensure. Jim Grawe, assistant attorney general, and Larry Disney, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend Section 2 to make a technical correction and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 30:125. Continuing education for appraisers.

201 KAR 30:180. Distance education standards.

A motion was made and seconded to approve the following amendment: to amend Section 3 to correct the name of the referenced agency. Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 30:190. Educational requirements for certification.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 4, and 6 to



correct internal cross-references. Without objection, and with agreement of the agency, the amendments were approved.

Department of Agriculture: Division of Regulation and Inspection: Amusement Rides

302 KAR 16:091. Rides and attractions not included in the definition of amusement ride or attraction. Clint Quarles, staff attorney, represented the division.

TOURISM, ARTS AND HERITAGE CABINET: Department of Parks: Parks and Campgrounds

304 KAR 1:040. Campgrounds. Mona Juett, legislative liaison; Leigh Powers, general counsel; and Elaine Walker, executive director, represented the department.

In response to a question by Acting Chair Senator Givens, Ms. Powers stated that the department had problems in the past with golf carts blocking access areas. Ms. Walker stated that this administrative regulation allowed golf carts in some areas where they were previously prohibited. Ms. Powers stated that all-terrain vehicles were also now allowed in some areas where they were previously prohibited. Parking sanctions were also established in this administrative regulation.

In response to a question by Representative Ford, Ms. Powers stated that this administrative regulation expanded the areas allowed for use by campers using golf carts, all-terrain vehicles, and similar vehicles.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 2(1) to clarify that if a permit is revoked for a violation of this administrative regulation, the permit fee shall be nonrefundable. Without objection, and with agreement of the agency, the amendments were approved.

304 KAR 1:080. Kentucky Proud™ Promotion Program.

A motion was made and seconded to approve the following amendments: to amend the TITLE, the STATUTORY AUTHORITY paragraph, and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Mine Permits: Bond and Insurance Requirements

405 KAR 10:011E. Repeal of 405 KAR 10:010 and 405 KAR 10:020. Michael Haines, general counsel, and Steve Hohmann, commissioner, represented the division.

In response to questions by Acting Chair Senator Givens, Mr. Hohmann stated that the federal Office of Surface Mining (OSM) required adequate reclamation bonding. OSM recently noted that Kentucky's bonding system was inadequate and therefore deficient. The

division established a work group that included industry representatives to develop adequate bonding requirements. The bonding amounts in these administrative regulations were those developed by the work group. OSM initially rejected these amounts; however, OSM viewed these amounts more favorably after an agreement that the division would support legislation during the 2013 Regular Session of the General Assembly to establish a statutory back-up bonding pool. If Kentucky did not make these changes, OSM may revert administration of this program back to the federal level, which would result in the loss of the abandoned mine program and a ten (10) to twenty (20) percent increase in bonding requirements. Industry representatives participated in the work group and did not actively support the changes but understood the necessity of the changes.

In response to a question by Representative Ford, Mr. Hohmann stated that OSM initially rejected the bonding amounts established in these administrative regulations, but viewed the amounts more favorably after an agreement that the division would support legislation during the 2013 Regular Session of the General Assembly to establish a statutory back-up bonding pool. Other surrounding states used this same, two (2) pronged approach to reinforce bonding adequacy. The abandoned mine program received approximately forty-eight (48) million dollars from the federal government each year. The abandoned mine program was different from the reclamation bond issues established in these administrative regulations; however, a consequence of not providing for adequate bonding in these administrative regulations was the potential loss of the abandoned mine program and its accompanying yearly federal appropriation.

In response to questions by Representative Lee, Mr. Hohmann stated that the amount for the abandoned mine program was determined by OSM based on current coal production levels in Kentucky and a national formula. The total appropriation changed each year. The appropriation amount was determined by OSM at the beginning of each fiscal year and OSM issued a distribution chart each year around November. OSM monitored how the funds were spent.

405 KAR 10:015 & E. General bonding provisions.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to delete a repealed statutory citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 and 8 through 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 10:030. General

requirements for liability insurance.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to delete a repealed statutory citation; and (2) to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Performance Standards for Surface Mining Activities

405 KAR 16:020. Contemporaneous reclamation.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to delete a repealed statutory citation; and (2) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:130. Western Kentucky Correctional Complex. Amy Barker, assistant general counsel, and Amber Arnett, staff attorney, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to comply with the drafting requirements of KRS Chapter 13. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 6:140. Bell County Forestry Camp.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to comply with the drafting requirements of KRS Chapter 13. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky State Police: Driver Training

502 KAR 10:120 & E. Hazardous materials endorsement requirements. Morgain M. Sprague, counsel, and Heather Wagers, counsel, represented the KSP.

In response to a question by Acting Chair Senator Givens, Ms. Sprague stated that a CDL instructor had a traditional CDL license; however, the instructor also had a CDL certification. There was a circular problem with this administrative regulation that the revision was intended to correct. Subcommittee staff stated that there was a difference between "instruction permit" and "instructor permit," which may have added to confusion about the requirements.

A motion was made and seconded

to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to update citations; (2) to amend Sections 1 and 3 to update agency names; and (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Housing, Buildings and Construction: Division of Plumbing: Plumbing

815 KAR 20:020. Parts or materials list. Dawn M. Bellis, general counsel, represented the division.

A motion was made and seconded to approve the following amendments: to amend Section 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:191. Minimum fixture requirements.

Division of Building Codes Enforcement: Electrical

815 KAR 35:060. Licensing of electrical contractors, electricians, and master electricians pursuant to KRS 227A.060. Dawn M. Bellis, general counsel, and Libby Simpson, electrical licensing supervisor, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 8 and three (3) forms incorporated by reference to: (a) require that the applicant provide the last six (6) digits of the social security number, rather than the entire number; and (b) require an applicant or licensee to provide a verified criminal background check conducted by the Department of Kentucky State Police within sixty (60) days of an initial or renewal application; and (2) to amend Section 10 to change the edition date of the three (3) forms incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Aging and Independent Living: Division of Quality Living: Aging Services

910 KAR 1:190. Nutrition program for older persons. Elizabeth Fiehler, dietitian, and Phyllis Sosa, assistant director, represented the division.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 4, 5, 6, and 9 to 13 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Other Business: Memorial arrangements were announced and a moment of silence held for Mike Haydon,



the Governor’s Chief of Staff.

The following administrative regulations were deferred to the September 11, 2012, meeting of the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Kentucky Retirement Systems: General Rules

105 KAR 1:400 & E. Federal taxation limitation year.

105 KAR 1:420. 401(h) account established under 26 USC 401(h).

105 KAR 1:430. General compliance with federal tax laws.

GENERAL GOVERNMENT CABINET: Board of Physical Therapy: Board

201 KAR 22:001. Definitions for 201 KAR Chapter 22.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Kentucky Board of Emergency Medical Services: Board

202 KAR 7:601. Training, education, and continuing education.

The Subcommittee adjourned at 1:45 p.m. until September 11, 2012.

**EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE**

Minutes of the Meeting of the 2012 Interim August 14, 2012

**Call to Order and Roll Call**

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, August 14, 2012, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Jack Westwood, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Ted Edmonds, Co-Chair; Senators Vernie McGaha, and Ken Winters; Representatives Linda Belcher, Bill Farmer, and Mary Lou Marzian.

Legislative Guest: Representative Derrick Graham

Guests: Kennedy Turner, Jessica Ender, Tom Ender, Elana Crane, and Karen Ender, Jefferson County Teacher Association (JCTA); Don Meade of Priddy, Cutler, Miller, and Meade, PLLC, representing JCTA; Jim Thompson, Education and Workforce Development Cabinet; Erin Klarer, Kentucky Higher Education Assistance Authority; Betty Muntz, Kentucky Council for Exceptional Children; and Clyde Caudill, Jefferson County Public Schools.

LRC Staff: Ben Boggs, Jo Carole Ellis, Janet Stevens, Ken Warlick, and Lisa Moore.

**Approval of Minutes of June 12 2012 Meeting**

Representative Edmonds moved to accept the minutes, and Senator Winters seconded the motion. The motion carried by voice vote.

**Review of Administrative Regulations**

Representative Belcher moved to adopt the technical amendments to 703 KAR 5:225, and Representative Marzian seconded the motion. The motion carried by voice vote.

Kevin Brown, Associate Commissioner and General Counsel, Ken Draut, Associate Commissioner, Office of Assessment and Accountability, and Susan Allred, Associate Commissioner, Office of Next Generation Schools and Districts, explained administrative regulation 703 KAR 5:225, School District Accountability, Recognition, Support, and Consequences. Mr. Brown said the regulation establishes the statewide system of accountability, recognition, support, and consequences, and addresses waiver requirements of the United States Department of Education relating to the No Child Left Behind Act (NCLB) enacted in 2001.

Mr. Draut said 703 KAR 5:225 will impact all public schools and districts in Kentucky. Upon identification in a specific accountability classification, lower-performing schools and districts will be required to implement school improvement activities, including: conducting needs assessments; developing short and long term plans; increasing parent and community involvement; identifying targeted activities to address performance; and providing teacher assistance teams and training.

Ms. Allred said the labels used to identify schools are reward, priority, and focus. Reward schools are high performing and schools of distinction. Priority schools are current persistently low-achieving schools, and focus schools are underperforming in closing achievement gaps. Progressing schools will need to improve overall scores each year, starting in 2013. The improvement goal is called the Annual Measurable Objective (AMO). If a school meets its AMO, it will be labeled as Progressing, indicating that it is moving in the right direction.

Mr. Draut said a set of aspirational delivery targets for the components of achievement, gap, growth, college and career readiness, and graduation rate will be created for each school. These delivery targets for each component will help schools stay on track to improve overall scores and meet their AMOs. He noted the delivery targets will be reported publicly.

Responding to Senator Westwood’s question regarding goals for schools of high distinction, Mr. Draut said top tier schools will still have goals, but the growth amount will be approximately half of the requirement of lower ranked schools. He noted schools are aiming to improve overall scores, and not just their percentile rank. All schools have room for improvement as it takes many years to reach a 100 percent overall score.

Responding to a question from Representative Belcher, Mr. Draut said the five components of achievement, gap, growth, college and career readiness, and graduation rate are weighted differently

for each level of school. The high school weights the components evenly at 20 percent each, the middle school relies less on college and career readiness, and the graduation rate component is not applicable at the elementary school level. He said the weights are explained in detail in administrative regulation 703 KAR 5:200, Next Generation Learner. KDE will provide copies of that regulation to the subcommittee members.

Responding to Representative Belcher’s question about damage to school and teacher morale if student assessment scores are lower from this past year, Mr. Draut said the achievement scores will drop because they are being aligned with the college readiness scale equivalent to the ACT benchmarks. He said all schools are in the same situation in the new accountability system.

Representative Belcher said it is unfortunate that the teachers have worked avidly to help improve student assessment scores, and some may find it hard to accept that scores will be lower. She feels that teachers should be forewarned. Ms. Allred said the assessment scores will be used as a starting point for planning next steps and activities to help students improve. She hopes a positive viewpoint will be maintained with the teachers as the department provides public explanations when scores are released.

Senator Winters moved to adopt technical amendments to 703 KAR 5:070, and Representative Edmonds seconded the motion. The motion carried by voice vote.

Mr. Brown explained 703 KAR 5:070, Special Populations in State-Required Assessment and Accountability Programs. He noted that it establishes procedures for the inclusion of special student populations in the state-required assessment and accountability programs. KDE amended the regulation to update terminology and requirements consistent with KRS 158.6453, KRS 158.6455, the NCLB Act of 2001, the Individuals with Disabilities Education Act, and its federal regulations, and Section 504 of the Rehabilitation Act of 1973, as amended, and its federal regulations. Specifically, the amendments update the procedures for accommodations to include: limiting the use of the reader accommodation on reading tests; limiting the use of a calculator on non-calculator portions of state assessments; clarification of procedures for assessing students with Limited English Proficiency; clarification of prompting and cueing to remain on task; adding a 3 x 5 note card under manipulatives; removing the use of student generated glossaries for English language learners; removing outdated terminology; providing a waiver for students with special circumstances; and reorganizing the document incorporated by reference to improve clarity.

Mr. Draut clarified that readers will be allowed in mathematics, science, social studies, and science because those

assessments test content knowledge and not reading ability. The reader will be excluded on the reading test only, which is administered once a year to students in Kentucky. The regulation does not have any prohibitions on use or non-use of a reader in the instructional classroom on a day-to-day basis.

Mr. Draut said the new assessment test is based on the common core standards in reading and mathematics. The reading assessment contains decoding and comprehension measurements. He explained decoding is a term for reading the symbols transcribed on paper. The problem with students utilizing a reader on the reading assessment is that it is in conflict with the goal of measuring student proficiency in decoding.

Mr. Draut said 41 out of 50 states do not allow students with disabilities to use a reader. The other nine states allow a limited use of a reader. He noted Kentucky’s high exclusion rate of student with disabilities on the National Assessment of Educational Progress (NAEP) assessment. Kentucky has the second highest number of students in the country excluded from taking the NAEP in both the fourth and eighth grades. He added that the NAEP is the federal government’s test that measures educational progress. It does not allow the use of a reader, but it permits states that allow readers to exclude those students from the test.

Mr. Draut said Maryland, Massachusetts, and South Carolina have a waiver system for students with disabilities who require special accommodations on assessments. The ACT also utilizes a waiver system for students with disabilities. Students are approved or disapproved for special testing accommodations based on meeting specific criteria. He noted the national testing consortium, the Partnership for Assessment of Readiness for College and Careers (PARCC), to which Kentucky belongs, is considering the waiver process.

Mr. Draut said Kentucky has written a waiver process in 703 KAR 5:070 that would allow schools to apply for a reader for the reading assessment. He said KDE would approve or disapprove the waivers.

Mr. Draut said the Kentucky mathematics assessment, in coordination with the common core standards, measures two types of mathematical abilities. The assessment includes problem-solving and applying to mathematical concepts, and completing computation problems. Kentucky will no longer allow students with disabilities to utilize a calculator on the computation portion of the mathematics assessment.

Responding to Senators Westwood’s question, Mr. Draut said the administrative regulation does not include language for a waiver for use of a calculator on the mathematics assessment for the computation portion. In response to Senator McGaha, he noted that other nine states do not allow waivers for calculators on that part of the test.



Responding to Senator McGaha's question about students comprehending information without being able to decode it, Mr. Draut said comprehension can be measured on its own by someone reading the passage to the student. He said it is difficult to measure decoding on its own unless it is a one-on-one test where the students read orally to the test administrator. He said this is not an option for Kentucky. Senator McGaha said he is aware that some students can read a passage and not comprehend what they have read, and others struggle to read the passage but can explain it fluently.

Responding to Senator McGaha's question about the waiver system, Mr. Draut said three of the nine states that allow limited readers have the waiver system, and the other six have criteria, such as allowing readers to read the test instructions but not the passage.

Johnny Collette, Director, Division of Learning Services, Office of Next Generation Learners, KDE, explained the proposed waiver process in the administrative regulation. He said for students with a documented disability who, due to the severity of their disability, are unable to access the reading assessment without the use of a reader, the district may apply to KDE for a waiver to use the read aloud accommodation not otherwise permitted in the administrative regulation.

Mr. Collette said the procedure is intended for use by a very small number of students who are not eligible for participation in the alternate K-PREP, are functioning significantly below their peers academically, and have demonstrated, even after varied and repeated attempts to teach the skills, that they are unable to access the reading assessment without the use of the reader. The criteria for determining the use of a reader should not be solely dependent upon the student's grade level performance or his or her cognitive ability. There should be documentation over time that, with intervention and effective instruction, the student continues to be unable to access the reading assessment without the use of a reader.

Mr. Collette said KDE will monitor and report to the Kentucky Board of Education (KBE) the rates of requests to utilize the read aloud accommodation not otherwise permitted in the regulation.

Responding to Senator McGaha's question regarding who approves the waiver, Mr. Collette said it will be a team effort across KDE offices.

Responding to Senator McGaha, Mr. Brown noted the administrative regulation would go into effect in the spring of 2013. He said language was previously recommended for incorporation in the students' Individual Education Plans (IEPs) to allow flexibility in the IEP if state assessment changes are implemented. Because of the bridge language, a specially called IEP meeting would not be needed.

Responding to Senator McGaha's question, Mr. Draut said the changes in

the administrative regulation will affect end-of-course testing. Senator McGaha is concerned this change will negatively impact older students who have relied on the reader accommodations for many years. Mr. Collette responded that the waiver process should identify this type of student. He also said that KDE will consider carefully the recommendation of the district. The school personnel know the student and his or abilities much better than the staff at KDE. Senator Winters wants the student's IEP team heavily involved in the waiver process.

Responding to Senator Winters question about how much reading is required on an English end-of-course exam, Mr. Draut said the English II end-of-course exam relies on a significant amount of reading. He noted the federal Department of Education requires states to designate the grade at which a high school reading test will be administered. Mr. Draut said sophomores and juniors are required to complete a writing exam, which measures the ability of a student to write. Senator Winters said that students can lose ground on comprehension trying to concentrate on the decoding of words.

Responding to a question from Representative Belcher, Mr. Draut said he does not have the data on how the students perform on assessments in the 41 states that have banned the reader. He will provide the information, as well as the data on how successful the three states have been that utilize the waiver program. Representative Belcher said it is important to look at the data and see if there were improvements in those states. She emphasized that KDE does not know the students in the same manner as the school districts.

Mr. Collette responded that KDE has the responsibility to improve educational results and functional outcomes. In order to fulfill its role, KDE needs accurate data on what these special needs students really know in order to improve results.

Responding to a question from Representative Belcher, Mr. Brown said each school district will develop each student request. Mr. Collette said the details are still being worked out on the waiver process regarding criteria for approval. Representative Belcher stated that KDE should wait a year before implementing the changes proposed in the administrative regulation. She said the extended timeframe would allow teachers and parents the time to prepare for the change. She also said KDE needs to have all the details worked out before statewide implementation.

Responding to Representative Farmer's question regarding the purpose of the functional math test without the calculator, Mr. Draut said that without the calculator it is a computation test. He noted the common core standards require the computation to be performed mentally, but students will be provided with scratch paper.

Responding to Representative Farmer, Mr. Collette said the waivers

must be received at least four weeks in advance of testing, but there is nothing prohibiting the district from submitting it earlier. He said a specific criteria evaluation system will ensure waivers are approved or disapproved in a uniform and consistent pattern. He also said that the public has been updated on the status of the administrative regulation, but detailed training has not occurred because the administrative regulation has not gone into effect.

Representative Marzian said it is alarming to implement a policy this school year that does not have the details finalized. Responding to her question regarding the subcommittee possibly finding the administrative regulation deficient, Mr. Brown said it can still go into effect if the Governor signs it into law.

Representative Marzian would like to see the data on the school systems that have implemented the waiver system. Senator Westwood concurred that the data would be useful for members to review prior to the administrative regulation being referred to the Interim Joint Committee on Education (IJCE).

Don Meade, attorney representing the Jefferson County Teacher Association (JCTA), said he is opposed to the implementation of 703 KAR 5:070. He said the students' rights are being violated because they have trained for the test using the accommodations. He said it is bad policy for the state to determine which students need to use accommodations and which ones do not. He noted removal of the accommodations will result in the student test scores dramatically dropping, and this will reflect negatively on the school.

Mr. Meade said there has been no collaboration or buy-in from the communities or advocacy groups for children with disabilities. He said it is a top down, heavy handed, state mandate that is ill timed and ill conceived.

Kennedy Turner, Exceptional Childhood Education (ECE) teacher, and Caucus Chair for the JCTA, representing about 300 ECE teachers. She said there is a petition against the regulation with over 800 signatures. The group has asked KDE for any research-based evidence which supports the argument that removing the accommodations is beneficial for children. She said Kentucky is known for being a leader in education and thinks KDE should review the data from other states who have removed the accommodations. If the data proves removal of the accommodations is particularly harmful to students with disabilities, as she believes, then Kentucky should go against the status quo. She said teachers need better training on the exact requirements necessary to qualify students for readers. She concluded that research shows Kentucky students who have the reader accommodation still score far below their peers who do not have a reader provided on the test.

Jessica Ender, ECE teacher, testified against 703 KAR 5:070. She gave personal accounts of some of her students and their

success stories. She urged Kentucky to remain a leader in education.

Betty Muntz, Executive Secretary, Kentucky Council for Exceptional Children, said she provided comments at the public hearing meeting of the Kentucky Board of Education (KBE) against 703 KAR 5:070. She noted several technical changes were made as a result, but all of her concerns have not been met.

Ms. Muntz said most states that have removed the special accommodations from students with disabilities have transferred the students from the diploma program into an alternative or differentiated diploma program. She agreed with Kentucky's decision to keep students on track to receive a high school diploma for employment purposes. She noted 38.8 percent of Kentucky students have a reader. This percentage includes the most severe cognitively disabled children on track to receive a certificate, and not a high school diploma.

Ms. Muntz said her main concern is whether students in tenth grade, who are already using accommodations outlined in their IEPs, can be suddenly forced to take end-of-course assessments without the accommodations, thus leading to a failed grade. She said it is discriminatory to the tenth grade students to not allow the use of accommodations for the English assessment and the non-calculator portion of the math assessment.

Ms. Muntz said she is concerned with the legal issues of making the changes outlined in the administrative regulation because the school year has started. IEPs have been written for this year under current regulations. She noted it would take many months to train educators to prepare students for this drastic change in test taking, and details are not finalized. Parents also need to be informed in case there is a need for a new IEP meeting, which will be an enormously time consuming process. She added that most administrative regulations that are approved after a school year has begun are implemented the following school year, which would be the 2013-2014 school year for this regulation.

Ms. Muntz concluded that the waiver process is too restrictive and laden with paperwork in a field convoluted with red tape. She said the waiver process is intended to be used for a small number of students as KDE has stated in the summary of the regulation. She feels Kentucky should not take any steps to lower the 78 percent graduation rate. Students with disabilities are easily frustrated and may drop out of school if coursework becomes unmanageable.

Senator Westwood said the Governor has the ability to withdraw or move ahead with the administrative regulation regardless of whether the subcommittee finds it deficient. He read the reasons to find an administrative regulation deficient to the members.

Representative Graham said teachers become frustrated with changes that have



immediate impact. In response to his question, Mr. Collette said a team of KDE staff would approve or disapprove the waivers.

Responding to Representative Belcher, Mr. Collette said the educational cooperatives are in support of the administrative regulation. He said it is imperative to identify exactly what the students with disabilities know in order to target resources to help improve their educational bottom line results.

Mr. Collette said there is no appeal process in place for the waiver system. Representative Belcher said there are too many unknowns and questioned the decision to allow KDE to overrule Kentucky’s school districts. She emphasized the need to see the data of other states using the waiver process before implementing in Kentucky.

Senator Westwood told KDE that the subcommittee is formally requesting data from the other states using the waiver program to review the results. Representative Farmer made the motion to find administrative regulation 703 KAR 5:070 deficient based on the category of “other,” and Representative Marzian seconded the motion. The motion carried unanimously by voice vote. Senator Westwood said he hopes this sends a clear message to the IJCE that the regulation has problems.

With no further business before the committee, the meeting adjourned at 3:15 p.m.

**GOVERNMENT CONTRACT REVIEW COMMITTEE**  
Committee Minutes  
September 11, 2012

**Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, September 11, 2012, at 9:00 AM, in Room 171 of the Capitol Annex. Senator Vernie McGaha, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Vernie McGaha, Co-Chair; Senators Carroll Gibson and Paul Hornback; Representatives Brent Housman and Brent Yonts.

**Guests:** Brenn Combs, Julie Brewer, Neville Wise, Tom McMahan, Sharron Burton, Jill Mitchell, Tim Miller, David Cook, Charlie Harman, Peggy Stratton, Kim Jenkins, Matt Osborne, Eugene Harrell, Rebecca Comley, Mark Pfeiffer, Tony Hatton, Tim Hubbard, Paul Gannoe, Jennifer Linton, Karen Chrisman, Rodney Murphy, Leah MacSwords, Hollie Spade, Rhonda Sims, Robin Chandler, Lynsey Womack, Jodie McDonald, and Stacy Phillips.

**LRC Staff:** Kim Eisner, Matt Ross, and Becky Brooker.

A motion was made by Representative Yonts to approve Minutes of the August 2012 meeting of the committee. Senator Hornback seconded the motion, which passed without objection.

**AUGUST DEFERRED ITEM**  
**DEPARTMENT FOR PUBLIC HEALTH:**

National Rural Recruitment & Retention Network, 1200002369. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Housman seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Housman seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Housman seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Housman seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Housman seconded the motion, which passed without objection.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

**ADMINISTRATIVE OFFICE OF THE COURTS:**

Stites & Harbison, 1300000600.

**AUCTIONEERS, BOARD OF:**

Stephen W. Van Zant, 1200003941.

**AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:**

Crowe Horwath, LLP, 1300000412; Percy & Gray, PSC, 1300000451; Tichenor & Associates, 1300000492; Kem Duguid & Associates, PSC, 1300000569; Tichenor & Associates, 1300000645; Dean Dorton Allen Ford, PLLC, 1300000680; Kem Duguid & Associates, P.S.C., 1300000681; Simon CPA & Company P.S.C., 1300000686; Percy & Gray P.S.C., 1300000687; Ray, Foley, Hensley & Company, PLLC, 1300000693; Percy and Gray, P.S.C., 1300000697; Morgan Franklin, L.L.C., 1300000698; Tichenor and Associates, 1300000699.

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

Res Care Incorporated, 1200001137; Jennie Stuart Med Center, 1200001196; Kentucky Alliance Boys and Girls Club, 1200001263; Crown Services Incorporated, 1200003105; Guardian Healthcare Providers, 1200003106; Crown Services Incorporated, 1200003107;

Crown Services Incorporated, 1200003108; Guardian Healthcare Providers, 1200003109; Supplemental Health Care, 1200003110; Steve Sparks, PhD, 1300000250; Crown Services, 1300000323.

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION:**

Jackson Environmental Consulting Services, LLC, 1300000423.

**DEPARTMENT FOR PUBLIC HEALTH:**

Volunteers of America of Kentucky Incorporated, 1200003927; Matthew 25 AIDS Service Incorporated, 1200003929; AIDS Volunteers Incorporated, 1300000222; Crown Services Incorporated, 1300000307; Volunteers of America of Kentucky Incorporated, 1300000420; Matthew 25 AIDS Service Incorporated, 1300000421; University of Kentucky Research Foundation, 1300000422.

**EASTERN KENTUCKY UNIVERSITY:**

The Buck Institute for Education, 14-017; Marsh USA Incorporated 14-018.

**EDUCATION, DEPARTMENT OF:**

Donna A. Meyer, 1200003854; New Frontier 21 Consulting, 1300000006; Hands On Therapy, P.S.C., 1300000108; Carol A. Klaber, 1300000228; Robin B. Johnson, 1300000266; Michelle E. Deal, 1300000267; HUMRRO, 1300000269; Multi, 1300000275; Wade William Honey, 1300000277; Jennifer R. Stocker, 1300000329; Robert L. Falk, 1300000382; Kentucky Museum of Art & Craft Incorporated, 1300000384; Lee Puckett, 1300000388; Danville Pediatrics, 1300000466; Hands On Therapy, PSC, 1300000495; Public Consulting Group, 1300000559.

**FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**

K. Norman Berry Associates, 1300000110.

**FISH & WILDLIFE, DEPARTMENT OF:**

Southwick Associates Incorporated, 1300000223.

**JUSTICE CABINET:**

Hurt, Crosbie & May, PLLC, 1300000452; Britton Osborne Johnson, PLLC, 1300000496.

**KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:**

Original Software Incorporated, 13-007.

**KY PUBLIC SERVICE COMMISSION:**

BBC Research & Consulting, 1300000476.

**LEGISLATIVE RESEARCH COMMISSION:**

Robert L. Linn, 12/13-05; Ron Hambleton, 12/13-06; Pat Roschewski, 12/13-07; Daniel Korte, 12/13-08; Doris Redfield, 12/13-09.

**LIBRARIES & ARCHIVES, DEPARTMENT FOR:**

Carson Block Consulting, Incorporated, 1300000425; Saroj

Ghoting, 1300000427; Lauren Burnett, 1300000428; Miller Consulting Group, LLC, 1300000429.

**MILITARY AFFAIRS, DEPARTMENT OF:**

Hasan H. Ahmad, 1300000394. **MURRAY STATE UNIVERSITY:** Mercer Health & Benefits, LLC, 14-13.

**NORTHERN KENTUCKY UNIVERSITY:**

Laurie A. Henry d/b/a Innovation Global Education, 2013-614.

**POST SECONDARY EDUCATION, COUNCIL ON:**

The Lampo Group Incorporated, 1300000460.

**PUBLIC ADVOCACY, DEPARTMENT FOR:**

DNA Diagnostics Center, 1200003671.

**STATE POLICE, DEPARTMENT OF:**

James Daniel Quarles, M.D., 1300000695.

**TRANSPORTATION CABINET:**

Stantec Consulting Services Incorporated, 1300000239; Bureau Veritas Company, 1300000345; HMB Professional Engineers Incorporated, 1300000349; WMB Incorporated, 1300000360; Stantec Consulting Services Incorporated, 1300000362; American Engineers Incorporated, 1300000363; Florence & Hutcheson, 1300000366; Stantec Consulting Services Incorporated, 1300000367; Terracon Consultants Incorporated, 1300000368; GRW Aerial Surveys Incorporated, 1300000502; GMR Aerial Surveys Incorporated, 1300000512.

**UNIVERSITY OF KENTUCKY:**

Sasaki Associates Incorporated, A131070; Microsoft Enterprise Services, K13-162; Scannell & Kurz, K13-163.

**UNIVERSITY OF LOUISVILLE:**

Legacy Incorporated “Everyone Has One”, 13-119.

**VETERANS AFFAIRS, DEPARTMENT OF:**

Spencer Ray Incorporated d/b/a Forward Edge Associates, 1300000326.

**WESTERN KENTUCKY UNIVERSITY:**

American Society for Training & Development Incorporated (ASTD), 121325; Grant Thorton, LLP, 121329; Linda Sheffield, 121331; Todd Turner d/b/a Collegiate Sports Associates, 121332.

**WORKER’S COMPENSATION FUNDING COMMISSION:**

Blue & Company, LLC, 1200003748.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**DEPARTMENT FOR NATURAL RESOURCES:**

Cann Tech, LLC, 1200001731.

**DEPARTMENT FOR PUBLIC HEALTH:**

Heartland Cares Incorporated, 1200003706.



EDUCATION, DEPARTMENT OF:  
Boys & Girls Club of Greater Cincinnati, 1000002607.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:  
Ross Tarrant Architects Incorporated, 0700003254; Facility Commissioning Group, 0900011688; Luckett & Farley Architects Engineers & Construction Managers Incorporated, 0900012055; Barnette Bagley Architects, 1000001690; URS Corporation, 1100000073; John Milner Associates Incorporated, 1100000253; Stantec Consulting Services Incorporated, 1100001637; Staggs & Fisher Consulting Engineers Incorporated, 1200000308; EOP Architects, PSC, 1200001615; Tate Hill Jacobs Architect Incorporated, 1200002460; Ross Tarrant Architects Incorporated, C-06082726.

MEDICAL LICENSURE, BOARD OF:  
Multi, 1200002107.

NORTHERN KENTUCKY UNIVERSITY:  
Michael Schuster Associates, 2013-601.

TRANSPORTATION CABINET:  
QK4, 0700004069; Stantec Consulting Services Incorporated, 0800011041; EA Partners, PLC, 0900012421; URS Corporation, 1000004203; H. C. Nutting Company d/ b/a Terracon Consultants Incorporated, 1100000543; Florence & Hutcheson, 1100000547; Horn & Associates Incorporated, 1100000548; Stantec Consulting Services Incorporated, 1100000549; Thelen Associates Incorporated, 1100000550; Florence & Hutcheson, 1100000551; S&ME Incorporated, 1100000552; Stantec Consulting Services Incorporated, 1100000554; American Engineers Incorporated, 1100001599; QK4, 1200000162; Presnell Associates Incorporated d/b/a QK4, C-99005358-4.

WESTERN KENTUCKY UNIVERSITY:  
Brandeis University, 101225.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:  
BOARD OF LICENSURE FOR PRIVATE INVESTIGATORS:  
Occupations & Professions, 1200002338.  
BOARD OF PROFESSIONAL COUNSELORS:  
Occupations & Professions, 1200002367.  
DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:  
Kentucky Domestic Violence Association, 1200003629; Homeless and Housing Coalition of Kentucky, 1200003665; Green River Area Development District, 1200003670; Barren County Board of Education, 1300000226; Project Unite, 1300000230; Ohio Valley

Education Coop, 1300000240.

DEPARTMENT FOR NATURAL RESOURCES:  
Kentucky Department of Corrections, 1300000011; Natural Resources Environment Protection Cabinet, Division of Conservation, 1300000274.

DEPARTMENT FOR PUBLIC HEALTH:  
Community Action Lexington Fayette, 1200003605.

ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:  
Western Kentucky University Research Foundation, 1200002834.

EDUCATION, DEPARTMENT OF:  
Covington Independent Board of Education, 1200003013; Franklin County Board of Education, 1200003017; Henderson County Board of Education, 1200003024; University of Kentucky Research Foundation, 1200003442; Fayette County Board of Education, 1300000036; Kenton County Board of Education, 1300000040; Spencer County Board of Education, 1300000044; Barren County Board of Education, 1300000065; Bethune Institute, 1300000067; Boone County Board of Education, 1300000068; Boyd County Board of Education, 1300000072; Campbellsville Independent Board of Education, 1300000075; Christian County Board of Education, 1300000082; Christian County Board of Education, 1300000083; Covington Independent Board of Education, 1300000085; Cloverport Independent Board of Education, 1300000086; Corbin Independent Board of Education, 1300000087; Covington Independent Board of Education, 1300000088; Crittenden County Board of Education, 1300000089; Cumberland County Board of Education, 1300000090; Eminence Independent Board of Education, 1300000091; Fayette County Board of Education, 1300000093; Fulton County Board of Education, 1300000095; Garrard County Board of Education, 1300000096; Glasgow Independent Board of Education, 1300000097; Hancock County Board of Education, 1300000100; Washington County Board of Education, 1300000102; Harlan County Board of Education, 1300000103; Hazard Perry County Community MNS Development Center, 1300000105; Treasurer Henderson County Board of Education, 1300000107; Jefferson County Board of Education, 1300000112; Jenkins Independent Board of Education, 1300000113; Kenton County YMCA C/O YMCA of Greater Cincinnati, 1300000116; Fayette County Board of Education, 1300000117; Greenup County Board of Education, 1300000119; Wayne County Board of Education, 1300000121; Henderson County Board of Education, 1300000125; Jefferson County Board of Education, 1300000126; Newport Independent Board of Education, 1300000128; Pike County Board of Education, 1300000130; Letcher County Board of Education, 1300000143; Lighthouse

Promise Incorporated, 1300000145; Livingston County Board of Education, 1300000147; Lotts Creek Community School, 1300000148; Lyon County Board of Education, 1300000149; Treasurer McCracken County Board of Education, 1300000151; Middlesboro Independent Board of Education, 1300000153; Monroe County Board of Education, 1300000154; Treasurer Monticello Independent Board of Education, 1300000155; Nelson County Board of Education, 1300000157; Newport Independent Board of Education, 1300000158; Owen County Board of Education, 1300000160; Paintsville Independent Board of Education, 1300000163; Treasurer Paris Independent Board of Education, 1300000164; Pleasant Green Baptist Church, 1300000165; Pulaski County Board of Education, 1300000167; RC Durr YMCA, 1300000168; Robertson County Board of Education, 1300000169; Russell County Board of Education, 1300000170; Save the Children, 1300000172; Board of Education of Somerset School District, 1300000173; Taylor County Board of Education, 1300000175; Washington County Board of Education, 1300000176; Wolfe County Board of Education, 1300000178; Woodford County Board of Education, 1300000179; Jessamine County Board of Education, 1300000198; Bourbon County Board of Education, 1300000209; Bourbon County Board of Education, 1300000212; Jefferson County Board of Education, 1300000213; Jefferson County Board of Education, 1300000214; Jefferson County Board of Education, 1300000215; Jefferson County Board of Education, 1300000216; Jefferson County Board of Education, 1300000217; Jefferson County Board of Education, 1300000218; West Kentucky Education Cooperative, 1300000232; University of Louisville, 1300000241; University of Kentucky Research Foundation, 1300000243; Morehead State University, 1300000244; Owen County Board of Education, 1300000249; Lee County Board of Education, 1300000251; Jackson Independent Board of Education, 1300000308; Treasurer Magoffin County Board of Education, 1300000309; Gallatin County Board of Education, 1300000354; Warren County Board of Education, 1300000400; Spencer County Board of Education, 1300000401; Treasurer Jefferson County Board of Education, 1300000404; Leslie County Board of Education, 1300000406; Pike County Board of Education, 1300000410; Madison County Board of Education, 1300000415; Madison County Board of Education, 1300000416; Hart County Board of Education, 1300000418; Estill County Board of Education, 1300000434; Estill County Board of Education, 1300000435; Kentucky Educational Development Corporation, 1300000436; Kentucky Educational Development Corporation, 1300000437; Boone County Board of Education, 1300000448; Corbin Independent Board

of Education, 1300000482; Franklin County Board of Education, 1300000484; Fulton Independent Board of Education, 1300000485; Henderson County Board of Education, 1300000486; Jessamine County Board of Education, 1300000487; Letcher County Board of Education, 1300000488; Magoffin County Board of Education, 1300000489; Montgomery County Board of Education, 1300000490; Pulaski County Board of Education, 1300000493; University of Kentucky Research Foundation, 1300000498; Advanced - Kentucky, 1300000499; Clark County Board of Education, 1300000575; Treasurer Daviess County Board of Education, 1300000583; Clark County Board of Education, 1300000588; Treasurer Fleming County Board of Education, 1300000714; Kentucky Valley Education, 1300000715.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:  
Kentucky Archaeological Survey, 1300000453.

FISH & WILDLIFE, DEPARTMENT OF:  
University of Tennessee, 1200001858; United States Fish & Wildlife Service, 1300000171; City of Frankfort, 1300000317; Quail Unlimited Incorporated, 1300000456; University of Louisville Stream Institute Cvl & Env. Engrng, 1300000459; Mammoth Cave Resource Conservation & Development Area Incorporated, 1300000500.

INFRASTRUCTURE AUTHORITY:  
Harlan County Fiscal Court, 1300000733.

MARRIAGE AND FAMILY THERAPISTS, BOARD OF LICENSURE FOR:  
Occupations & Professions, 1200002313.

MILITARY AFFAIRS, DEPARTMENT OF:  
Northern Kentucky Area Development District, 1200003947; Multi, 1200003957; Daviess County Emergency Management Agency, 1300000017.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:  
Community Ventures Corporation, 1200003607; Pennyryle Area Development District, 1300000331; Lake Cumberland Area Development District, 1300000334; KIPDA, 1300000335; Fivco Area Development District, 1300000339; Buffalo Trace Area Development District, 1300000341; Big Sandy Area Development District, 1300000342; Bluegrass Area Development District, 1300000343; Barren River Area Development District, 1300000344; City of Carrollton, 1300000346; Jessamine County Fiscal Court, 1300000370; Greenup County Fiscal Court, 1300000375; City of Campbellsville, 1300000450; Lee County Fiscal Court, 1300000520; Lee County Fiscal Court, 1300000521; Leslie County Fiscal Court, 1300000536; Leslie



County Fiscal Court, 1300000538; Leslie County Fiscal Court, 1300000539; Leslie County Fiscal Court, 1300000541; City of Berea, 1300000547; City of Pikeville, 1300000549; Owsley County Fiscal Court, 1300000567; Owsley County Fiscal Court, 1300000570; Henderson County Fiscal Court, 1300000596; Henderson County Fiscal Court, 1300000597; Henderson County Fiscal Court, 1300000599; City of Pikeville, 1300000603; City of Corbin, 1300000605; Union County Fiscal Court, 1300000628; City of Columbia, 1300000635; City of Powderly, 1300000636; Lewis County Fiscal Court, 1300000660; Garrard County Fiscal Court, 1300000669; Garrard County Fiscal Court, 1300000670; Housing Authority of Bowling Green, 1300000677; Muhlenberg County Fiscal Court, 1300000694; Henderson County Fiscal Court, 1300000708; Knott County Fiscal Court, 1300000722; Knott County Fiscal Court, 1300000723; Floyd County Fiscal Court, 1300000724; City of Berea, 1300000725; Floyd County Fiscal Court, 1300000730.

TOURISM DEVELOPMENT CABINET:

Kentucky State Nature Commission, 1300000376.

WORKFORCE INVESTMENT, OFFICE OF:

Bluegrass Technology Center, 1200002835; Western Kentucky Assistive Technology Center, 1200003156; Bluegrass Technology Center, 1200003955; Eastern Kentucky University, 1300000183; Kentucky Transportation Cabinet, 1300000255; Western Kentucky University Research Foundation Incorporated, 1300000292.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Adanta Group, 1200002591.

AGRICULTURE, DEPARTMENT OF:

Multi, 0900011602; Multi, 0900011666.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Pathways Incorporated, 1200001073; Cumberland River Mental Health Mental Retardation Board Incorporated, 1200001076.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Eastern Kentucky University, 1200002499.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Jefferson County Board of Education, 1100000493.

EDUCATION, DEPARTMENT OF:  
Owensboro Independent Board of Education, 1000002746; Robertson County Board of Education, 1000002757; Eastern Kentucky University, 1200000259; University of Louisville Research

Foundation, 1200000262; University of Kentucky Research Foundation, 1200000278; Kentucky State University, 1200000892; Jefferson County Board of Education, 1200001944.

KY STATE NATURE PRESERVES COMMISSION:

Southern Conservation Corporation, 1200000255; Southern Conservation Corporation, 1200003421.

MILITARY AFFAIRS, DEPARTMENT OF:

Hopkinsville Surface & Storm Utility, 1200002598.

OFFICE OF HEALTH POLICY:

Insurance Health and Life, 1200003227.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Bellevue, 0700006414; City of Hickman, 1100000779; Hope Center, 1100000919.

TRANSPORTATION CABINET:

National Highway Institute, 1200001574.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

CORRECTIONS, DEPARTMENT OF:

Phamatech Incorporated, 1300000554. Brenn Combs and Julie Brewer discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Housman seconded the motion, which passed without objection.

DEPARTMENT FOR MEDICAID SERVICES:

Rector & Associates Incorporated, 1200002286; Island Peer Review Organization Incorporated, 1200003020; Island Peer Review Organization Incorporated, 1300000281. Neville Wise and Tom McMahan discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Senator Hornback seconded the motion, which passed without objection.

DEPARTMENT OF INSURANCE:

Wakely Consulting Group, 1300000430; Lewis & Ellis Incorporated, 1300000431. Sharron Burton, Jill Mitchell and Tim Miller discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Housman seconded the motion, which passed without objection.

EDUCATION, DEPARTMENT OF:

Kentucky Association of School Administrators, 1300000582. David Cook and Charlie Harman discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Hornback seconded the motion, which passed

without objection.

TRANSPORTATION CABINET:

Frost Brown Todd, LLC, 1300000015. Peggy Stratton, Matt Osborne, Kim Jenkins discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Housman seconded the motion, which passed with Senator McGaha voting NO.

TREASURER, OFFICE OF THE KENTUCKY STATE:

Xerox State & Local Solutions Incorporated, 1300000257; Abandoned Property Experts, 1300000258; Verus Financial, LLC, 1300000259, Audit Services, U. S., LLC, 1300000260; Hertz Herson & Company, LLP, 1300000261; Discovery Audit Services, LLC, 1300000262; Kelmar Associates, LLC, 1300000263; Treasury Services Group, LLC, 1300000264. Eugene Harrell, Rebecca Comely and Mark Pfeiffer discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Senator McGaha seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACT AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Chase Environmental Group, 1100000056. Tony Hatton and Tim Hubbard discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Housman seconded the motion, which passed without objection.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

HMB Professional Engineers Incorporated, 1200002582. Paul Gannoe and Jennifer Gannoe discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Hornback seconded the motion, which passed without objection.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

CABINET FOR HEALTH AND FAMILY SERVICES:

Pathways Incorporated, 1300000305. Karen Chrisman and Rodney Murphy discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Housman seconded the motion, which passed without objection.

DEPARTMENT FOR NATURAL RESOURCES:

Northern Kentucky Urban Community Forest Council, 1300000219; Northern Kentucky Urban Community

Forest Council, 1300000220. Leah MacSwords discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Housman seconded the motion, which passed without objection.

DEPARTMENT OF WORKPLACE STANDARDS:

University of Kentucky Health, 1200002168. A motion was made by Representative Yonts to DEFER the contract to the October 2012 meeting of the committee. Representative Housman seconded the motion, which passed without objection.

ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:

Waterfront Development Corporation, 1300000197. Hollie Spade discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Hornback seconded the motion, which passed with Senator McGaha and Representative Housman voting NO.

EDUCATION, DEPARTMENT OF:

University of Wisconsin Madison, 1200003802. Rhonda Sims and Charlie Harman discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Housman seconded the motion, which passed without objection.

EDUCATION, DEPARTMENT OF:

Kentucky Science & Technology Corporation, 1200003939. Robin Chandler, Charlie Harman, and David Cook discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Housman seconded the motion, which passed without objection.

THE FOLLOWING MEMORANDUM OF AGREEMENT FOR \$50,000 & UNDER WAS SELECTED FOR FURTHER REVIEW:

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Calvert City, 1300000505. Lynsey Womack and Jodie McDonald discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Hornback seconded the motion, which passed without objection.

EXEMPTION REQUEST

The Cabinet for Health and Family Services, Office of the Secretary, requested an exemption from the committee's routine review process for CHFS intra-agency agreements and will provide semi-annual reports. Stacy Phillips discussed the exemption request with the committee. A motion was made by Representative



Yonts to grant the exemption through June 30, 2014 and requested the first report to the committee by January 1, 2013. Representative Housman seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 10:23 AM.

**GOVERNMENT CONTRACT REVIEW COMMITTEE**

Committee Minutes

August 14, 2012

**Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, August 14, 2012, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Paul Hornback; Representatives Brent Housman and Brent Yonts.

Guests: Charles Puckett, Patrick Shirley, Kevin Mudd, Michele Blevins, Sara Giles, Kathy Burke, Earl Gresham, Carl Ishmael, Chris Workman, Gary Kupchinsky, Tom Stratton, Laura Arnold, Tim Pollard, Mike Mangeot, Mitchell Payne, Susan Grey, Linda Linville, Karen Kidwell, Travis Powell, and Dianne Leveridge.

LRC Staff: Kim Eisner, Matt Ross, and Becky Brooker.

A motion was made by Representative Yonts to approve Minutes of the July 2012 meeting of the committee. Senator McGaha seconded the motion, which passed without objection.

**JULY DEFERRED ITEMS**

WORKFORCE INVESTMENT OFFICE OF:

University of Kentucky Research Foundation, 1200002815. Charles Puckett and Patrick Shirley discussed the contract with the committee. A motion was made by Senator Hornback to disapprove the contract. Representative Housman seconded the motion, which passed with Representatives Yonts and Horlander voting NO.

A motion was made by Representative Yonts to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the

committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

ACCOUNTANCY, BOARD OF:  
Stiles Carter & Associates, P.S.C., 1300000053; Lewis Enterprises & Associates Incorporated, 1300000195

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Labor Relations Alternatives Incorporated, 1200001027; Dennis Buchholz, PhD & Associates, 1200001062; Theracare Alliance, 1200001102; Staff Easy, LLC, 1200001130; ResCare Incorporated, 1200001147; Crown Services Incorporated, 1200001159; Crown Services Incorporated, 1200001161; Guardian Healthcare Providers, 1200001162; Theracare Alliance, 1200001170; Theracare Alliance, 1200001173; Crown Services Incorporated, 1200001255; Pennyrile Radiology, 1200001266; Staff Care Incorporated, 1200001267; Nirbhay N. Singh, PhD, 1200001274; St. Claire Medical Center, 1200001285; Pharmacy Systems Incorporated, 1200001331; Quality Provider Services Incorporated, 1200001371; Dietary Consultants Incorporated, 1200001641; Guardian Healthcare Providers, 1200001687; Tag Realty, LLC, 1200001769; Multi, 1200001868; The Chyron Group, LLC, 1200002442; Med Care Pharmacy, LLC, 1200002446; Tri-state Podiatric Medical Services, PSC, 1200003291; Phillip W. Bale, PSC, 1200003611; Jackson & Coker Locumtenens, LLC, 1200003638; Registry of Physician Specialists A Medical Corporation, 1200003640; Crown Services Incorporated, 1200003763; Theracare Alliance, 1200003814; National Toxicology Specialist Incorporated, 1200003938

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Mirotech Incorporated, 1200003268

DEPARTMENT FOR NATURAL RESOURCES:

Pinnacle Actuarial Resources Incorporated, 1200003797; Joe Dietz, 1200003952

DEPARTMENT FOR PUBLIC HEALTH:

Heartland Cares Incorporated, 1200003706; St. Elizabeth Medical Center, 1200003805

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL:

Frankie J. Carroll, 1200003345; Sandy Swift, 1200003346; Charles Turner, 1200003347; Sandy Joslyn, 1200003349; Katrina Jadick, 1200003350;

Bob Roos, 1200003351; Lala Brumfield, 1200003352; Rodney Richardson, 1200003353; Sam Castle, 1200003354; Charles Hammond, Jr., 1200003355; Christopher Jadick, 1200003356; Harry W. Ryan, Jr, 1200003357; Steven R. Costello, 1200003358; Patricia S. Thurman, 1200003359; James Curtis Jones, 1200003360; Thomas Bustle, 1200003361; YLB Accounting & Consulting Services, 1200003363; Tiffany Michelle Parsons, 1200003364; James Ragland, 1200003395; Michael D. Grugin, 1300000061

EDUCATION, DEPARTMENT OF:  
Edvantia, 1200003645; Multi, 1200003825; Parsons Commercial Technology Group Inc., 1300000180; New Teacher Center, 1300000206.

EDUCATIONAL TELEVISION, KENTUCKY:

Vince Spoelker, 1300000132.

FINANCE AND ADMINISTRATION CABINET:

Stoll Keenon Ogden, PLLC, 1200003679; Vanantwerp, Monge, Jones, Edwards & McCann, LLP, 1200003728; Wyatt Tarrant & Combs, 1200003736; Goldberg & Simpson, PSC, 1200003737; McBrayer McGinnis Leslie & Kirkland, 1200003761; Cunningham Lindsey US Incorporated, 1300000041.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Architectural Investments, 1200001704; Michael Baker Jr. Incorporated, 1200002777; BTM Engineering Incorporated, 1200003703.

FINANCIAL INCENTIVES, DEPARTMENT OF:

Stoll Keenon Ogden, PLLC, 1200003468.

FISH & WILDLIFE, DEPARTMENT OF:

Amec Environment & Infrastructure Incorporated, 1200002664.

JUSTICE CABINET:

St. Elizabeth Medical Center, 1300000181.

JUVENILE JUSTICE, DEPARTMENT OF:

Sylvia L. Kuster, 1300000203.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:

Hawkins Delafield & Wood, LLP, 13-005.

KENTUCKY STATE UNIVERSITY:

JD & Associates Incorporated, 13-10.

MOREHEAD STATE UNIVERSITY:

Berry, Dunn, McNeil & Parker, LLC, 12-018-1; CG&B Marketing, LLC, 13-011; Central Kentucky Interpreter Referral Incorporated, 13-018; Scannell & Kurz Incorporated, 13-019.

MURRAY STATE UNIVERSITY:  
MGT of America Incorporated, 013-13.

NORTHERN KENTUCKY UNIVERSITY:

Geoff Smith, 2013-544-2; Walker Parking Consultants, 2013-610; Nelligan Sports Marketing Incorporated, 2014-611.

PERSONNEL-OFFICE OF THE SECRETARY:

Winner Resources, LLC, 1300000279.

POST SECONDARY EDUCATION, COUNCIL ON:

Premier Agendas Incorporated, 1300000248.

STATE POLICE, DEPARTMENT OF:

Joseph R. Johnson, 1300000356.

TOURISM DEVELOPMENT CABINET:

Hunden Strategic Partners, 1200003716.

TRANSPORTATION CABINET:

Carl J. Bensinger & Associates, 1300000016; GRW Aerial Surveys Incorporated, 1300000054; QK4, 1300000055; Lee Engineering, LLC, 1300000057; Thompson Consulting Group, LLC, 1300000058; Linebach Funkhouser Incorporated, 1300000059; HMB Professional Engineers Incorporated, 1300000069; J M Crawford & Associates Incorporated, 1300000071; Stantec Consulting Services Incorporated, 1300000073; HMB Professional Engineers Incorporated, 1300000186; Lochner H W Incorporated Consulting, 1300000187; Lochner H W Incorporated Consulting, 1300000188; Strand Associates Incorporated, 1300000189; HMB Professional Engineers Incorporated, 1300000190; Lochner H W Incorporated Consulting, 1300000191; Strand Associates Incorporated, 1300000192; HMB Professional Engineers Incorporated, 1300000199; Lochner H W Incorporated Consulting, 1300000204; Strand Associates Incorporated, 1300000205; HMB Professional Engineers Incorporated, 1300000207; Lochner H W Incorporated Consulting, 1300000210; Vaughn & Melton Consulting Engineers (Kentucky) Incorporated, 1300000211.

UNIVERSITY OF KENTUCKY:

Omni Architects, A131080; Caduceus Medical Development, LLC, K13-155; Marshall Medical Management, LLC, K13-156; Marshall Medical Management, LLC, K13-157; Commonwealth Anesthesia, PSC, K13-158; Community Medical Associates & Norton Hospitals Incorporated, K13-159; Norton Healthcare Incorporated, K13-160; iSolution Services, K13-161.

UNIVERSITY OF LOUISVILLE:

Fellon McCord, 13-094; Lord, Aeck & Sargent Incorporated, 13-102.

VETERINARY EXAMINERS, BOARD OF:

C. Loran Wagoner, 1200003946.

WESTERN KENTUCKY UNIVERSITY:

Earth Force Incorporated, 121312; Learning Curve Educational Consulting, 121314; Contemporary Services Corporation, 121317; Neace Lukens, 121419; Multi, 121421; Multi, 121422;



Multi, 121423; Multi, 121424; Multi, 121425; Multi, 121426; Multi, 121427; Multi, 121428; Multi, 121429; Multi, 121430.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**BOARD OF CLAIMS & CRIME VICTIMS COMPENSATION:**

Patrick Law Firm, 1200003124.  
**EASTERN KENTUCKY UNIVERSITY:**

Mark Zietlow & Associates, PLC, 14-004.

**EDUCATION, DEPARTMENT OF:**  
Jennifer R. Stocker, 1000002679; Carol A. Klaber, 1000002697; Mike Johnson, 1000002993; Save the Children Appalachian Field Office, 1100001666; Multi, 1200000602.

**FINANCE AND ADMINISTRATION CABINET:**

Multi, 1200003660.  
**FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**

Paladin Incorporated, 0600003090; GRW Engineers Incorporated, 1000000839; CMW Incorporated, 1000000976; Myers Jolly Architects, 1000003119; EOP Architects, PSC, 1100002570; Ross Tarrant Architects Incorporated, 1200000613; Ross Tarrant Architects Incorporated, 1200001550.

**JUVENILE JUSTICE, DEPARTMENT OF:**

Gateway Juvenile Diversion Project Incorporated, 1200002639; Methodist Home of Kentucky Incorporated, 1200002641.

**KY PUBLIC SERVICE COMMISSION:**

Christensen Associates Energy Consulting, LLC, 1200003118.

**MEDICAL LICENSURE, BOARD OF:**

Multi, 1200002107.  
**PERSONNEL BOARD:**  
Steven G. Bolton, 1200003012.

**POST SECONDARY EDUCATION, COUNCIL ON:**

Collaborative for Teaching, 1200001305.

**TRANSPORTATION CABINET:**

URS Corporation, 0700003365; Municipal Engineering Company, 0700005910; Community Transportation Solutions, 0900012152; QK4, 1000002185; Florence & Hutcheson, 1100003026; Palmer Engineering Company, 1100003162; Stantec Consulting Services Incorporated, 1200001545; Stantec Consulting Services Incorporated, 1200001546; Stantec Consulting Services Incorporated, 1200001547; Stantec Consulting Services Incorporated, 1200001636; HMB Professional Engineers Incorporated, C-99005065-6.

**UNIVERSITY OF KENTUCKY:**

Paladin Incorporated, A121060.  
**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT**

**OBJECTION:**

**CABINET FOR HEALTH AND FAMILY SERVICES:**

University of Louisville Research Foundation, 1200003563; Pennyroyal Center, 1300000030.

**DEPARTMENT FOR AGING & INDEPENDENT LIVING:**

Pennyrile Area Development District, 1200003479.

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

Cabinet for Workforce Development, 1200001105; Dayspring Incorporated, 1200001136; The Healing Place Incorporated, 1200001209; Division of Mental Health, 1200001211; People Advocating Recovery, 1200001212; Alcoholic Beverage Control Department, 1200001259; Kentucky Medical Services Foundation Incorporated, 1200002444.

**DEPARTMENT FOR COMMUNITY BASED SERVICES:**

Family & Children First, 1200003587.

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION:**

UK Research Foundation, 1200002603; University of Kentucky Health, 1200002730; University of Kentucky Research Foundation, 1200002827.

**DEPARTMENT FOR NATURAL RESOURCES:**

University of Kentucky Research Foundation, 1200003701; Department of Military Affairs, Air Transportation Division, 1200003746.

**DEPARTMENT FOR PUBLIC HEALTH:**

University of Louisville Research Foundation, 1200001989; University of Louisville Research Foundation, 1200002077; Walgreen Co., 1200002169; University of Kentucky Research Foundation, 1200003159.

**DIETITIANS & NUTRITIONISTS, BOARD OF LICENSURE CERTIFICATION:**

Occupations & Professions, 1200002358.

**EARLY CHILDHOOD ADVISORY COUNCIL:**

University of Kentucky Research Foundation, 1300000320.

**EDUCATION, DEPARTMENT OF:**

Northern Kentucky Cooperative for Educational Services Incorporated, 1200001931; Scott County Board of Education, 1200001940; Boyd County Board of Education, 1200003009; Fayette County Board of Education, 1200003015; Grant County Board of Education, 1200003019; Jefferson County Board of Education, 1200003025; Magoffin County Board of Education, 1200003032; Marshall County Board of Education, 1200003033; McCreary County Board of Education, 1200003034; Newport Independent Board of Education, 1200003036; Powell County Board of Education, 1200003037; Southern Regional Education Board,

1200003764; Indiana University, 1200003811; Madison County Board of Education, 1200003931; Floyd County Board of Education, 1200003932; Shelby County Board of Education, 1200003935; McCracken County Board of Education, 1200003936; Scott County Board of Education, 1200003937; Department for Medicaid Services, 1200003950; Woodford County Board of Education, 1300000025; Larue County Board of Education, 1300000026; Glasgow Independent Board of Education, 1300000029; Clark County Board of Education, 1300000032; McCracken County Board of Education, 1300000043; Washington County Board of Education, 1300000045; Lyon County Board of Education, 1300000050; Adair County Board of Education, 1300000063; Ballard County Board of Education, 1300000064; Berea Independent Board of Education, 1300000066; Bourbon County Board of Education, 1300000070; Casey County Board of Education, 1300000079; Caverna Independent Board of Education, 1300000081; Clinton County Board of Education, 1300000084; Hardin County Board of Education, 1300000101; Hickman County Board of Education, 1300000109; Lawrence County Board of Education, 1300000122; Lee County Board of Education, 1300000124; Hopkins County Board of Education, 1300000133; Newport Independent Board of Education, 1300000134; Bell County Board of Education, 1300000135; Henderson County Board of Education, 1300000139; Butler County Board of Education, 1300000140; Hart County Board of Education, 1300000141; Lewis County Board of Education, 1300000144; Lincoln County Board of Education, 1300000146; Marion County Board of Education, 1300000150; Metcalf County Board of Education, 1300000152; Morgan County Board of Education, 1300000156; Nicholas County Board of Education, 1300000159; Owensboro Independent Board of Education, 1300000161; Fayette County Board of Education, 1300000245; Trigg County Board of Education, 1300000246; Christian County Board of Education, 1300000247; Fayette County Board of Education, 1300000299; Bullitt County Board of Education, 1300000302; Leslie County Board of Education, 1300000303.

**EDUCATIONAL TELEVISION, KENTUCKY:**

Northern Kentucky University Research Foundation, 1300000010.

**FISH & WILDLIFE, DEPARTMENT OF:**

UK Research Foundation, 1200003568.

**GEOLOGISTS, BOARD OF:**

Occupations & Professions, 1200002366.

**JUVENILE JUSTICE, DEPARTMENT OF:**

Bell County Board of Education, 1300000200; Warren County Board of Education, 1300000202.

**KENTUCKY BOARD OF HOME**

**INSPECTORS:**

Occupations & Professions, 1200002343.

**KENTUCKY BOARD OF LICENSURE FOR MASSAGE THERAPY:**

Occupations & Professions, 1200002335.

**KY STATE NATURE PRESERVES COMMISSION:**

Southern Conservation Corporation, 1200003421.

**MILITARY AFFAIRS, DEPARTMENT OF:**

Cumberland City, 1200001540; Russell County Fiscal Court, 1200002589; Breckinridge County Road Fund, 1200003477; Louisville/Jefferson County Metro EMA Hazard Mitigation, 1200003550; Multi, 1200003894; Multi, 1200003933; Muldraugh City, 1300000012; City of Elizabethtown, 1300000014.

**OCCUPATIONAL THERAPY, BOARD OF:**

Occupations & Professions, 1200002345.

**OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:**

City of Central City, 1300000020; City of Campbellsville, 1300000022; Garrard County Fiscal Court, 1300000184; City of Campbellsville, 1300000185; City of Hopkinsville, 1300000254; Monroe County Fiscal Court, 1300000276; Henderson County Fiscal Court, 1300000294; Central City, 1300000296; City of Bonnieville, 1300000304; Whitley County Fiscal Court, 1300000324; Purchase Area Development District, 1300000330; Northern Kentucky Area Development District, 1300000332; Lincoln Trail Area Development District, 1300000333; Kentucky River Area Development District, 1300000336; Green River Area Development District, 1300000337; Gateway Area Development District, 1300000338; Cumberland Valley Area Development District, 1300000340.

**POST SECONDARY EDUCATION, COUNCIL ON:**

Southern Regional Education Board, 1200003819.

**PSYCHOLOGISTS, BOARD OF EXAMINERS OF:**

Occupations & Professions, 1200002341.

**S P E E C H - L A N G U A G E PATHOLOGY & AUDIOLOGY, BOARD OF:**

Occupations & Professions, 1200002342.

**VETERINARY EXAMINERS, BOARD OF:**

Occupations & Professions, 1200002352.

**WORKFORCE INVESTMENT, OFFICE OF:**

Spalding University Entech, 1200003152; Eastern Kentucky University, 1200003620; University of Kentucky Research Foundation, 1200003951; University of Kentucky Research



Foundation, 1200003953; University of Kentucky, Human Development Institute, 1200003954.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**AGRICULTURE, DEPARTMENT OF:**

Multi, 0900011666; Multi, 1200002235.

**EDUCATION, DEPARTMENT OF:**

Carlisle County Board of Education, 1000002613; Glasgow Independent Board of Education, 1000002671; Jenkins Independent Board of Education, 1000002719; Lawrence County Board of Education, 1000002721; Morgan County Board of Education, 1000002738; Floyd County Board of Education, 1100001661; University of Kentucky Research Foundation, 1200000393; Kentucky Teen Pregnancy Coalition, 1200001699.

**JUVENILE JUSTICE, DEPARTMENT OF:**

Louisville Metro Youth Detention Services, 1200002636.

**OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:**

City of London, 0700004511; City of Providence, 0700005312; Perry County Fiscal Court, 0700006178; City of Sandy Hook, 0800006941; Elkhorn City, 0800010986; Elliott County Fiscal Court, 0800011154; Elkhorn City, 0900012495; Magoffin County Fiscal Court, 0900012527; City of Sandy Hook, 1000000172; Lexington-Fayette Urban County Government, 1000000752; Pike County Board of Education, 1000000914; Breathitt County Board of Education, 1000001044; City of Middlesboro, 1000001405; City of Corbin, 1000003082; City of Louisa, 1000003162; Pike County Fiscal Court, 1000003227; Magoffin County Fiscal Court, 1000003613; Magoffin County Fiscal Court, 1000003615; Pattie A. Clay Hospital, 1000003879; Marshall County Fiscal Court, 1100000490; Henderson County Fiscal Court, 1100000491; City of Jeffersontown, 1100000497; Ballard County Fiscal Court, 1100000508; Carlisle County Fiscal Court, 1100000510; Calloway County Fiscal Court, 1100000514; City of Henderson, 1100000533; City of Olive Hill, 1100000581; City of Cynthiana, 1100000582; City of Winchester, 1100000620; Clark County Fiscal Court, 1100000621; City of Stanton, 1100000628; City of Hickman, 1100000779; Caldwell County Fiscal Court, 1100000788; Green River Area Development District, 1100000791; City of Dawson Springs, 1100000793; Greenup County Fiscal Court, 1100000802; Lincoln County Fiscal Court, 1100000958; McLean County Fiscal Court, 1100001011; City of Dawson Springs, 1100001020; City of Harrodsburg, 1100001139; Wayland City, 1100001549; Fulton County Fiscal Court, 1100001696; Elliott County Fiscal Court, 1100002291;

Letcher County Fiscal Court, 1200000290; City of Wheelwright, 1200000592; City of Louisa, 1200000650; Menifee County Fiscal Court, 1200000918; Magoffin County Fiscal Court, 1200000939; City of Sturgis, 1200000944; City of Sturgis, 1200000945; Coal Fields Regional Independent Authority, 1200000963; Muhlenberg County Fiscal Court, 1200000972; Breathitt County Board of Education, 1200001265; Letcher County Fiscal Court, 1200001352; City of Fleming Neon, 1200001353; City of Jenkins, 1200001608; Letcher County Fiscal Court, 1200001619; Jackson County Fiscal Court, 1200001625; Jackson County Fiscal Court, 1200001626; Webster County Fiscal Court, 1200002130; Webster County Fiscal Court, 1200002132; Webster County Fiscal Court, 1200002133; Magoffin County Fiscal Court, 1200002568; Leslie County Fiscal Court, 1200003088; Magoffin County Public Library, 1200003278; Union County Fiscal Court, 1200003295; Union County Fiscal Court, 1200003296; Pike County Fiscal Court, 1200003407; Pike County Fiscal Court, 1200003408; Boyd County Fiscal Court, 1200003410; Pike County Board of Education, 1200003411; Pike County Board of Education, 1200003412; Johnson County Fiscal Court, 1200003415; City of Catlettsburg, 1200003417; Ohio County Fiscal Court, 1200003553; Ohio County Fiscal Court, 1200003555; Pike County Fiscal Court, 1200003653; Floyd County Fiscal Court, 1200003654; City of Salyersville, 1200003655; Lawrence County Board of Education, 1200003772; Johnson County Fiscal Court, 1200003775; Johnson County Fiscal Court, 1200003776; City of Allen, 1200003781; Whitley County Fiscal Court, 1200003782; Menifee County Fiscal Court, 1200003783; Harlan County Fiscal Court, 1200003787; Hopkins County Fiscal Court, 1200003789; Hopkins County Fiscal Court, 1200003790; Hopkins County Fiscal Court, 1200003791; Union County Fiscal Court, 1200003792; Hancock County Fiscal Court, 1200003794; Menifee County Board of Education, 1200003795; Perry County Fiscal Court, 1200003871.

**TRANSPORTATION CABINET:**

Franklin County Health Department, 1200001745.

**WORKFORCE INVESTMENT, OFFICE OF:**

Center for Accessible Living, 1200000446.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

Multi, 1200001106. Kevin Mudd, Michele Blevins, and Sara Giles discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator

McGaha seconded the motion, which passed without objection.

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

Reach of Louisville Incorporated, 1200001178; Kevin Mudd, Michele Blevins, and Sara Giles discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

Dinsmore & Shohl, LLP, 1200003100; Kevin Mudd discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed with Senator Gibson electing to abstain (PASS) and Senator McGaha voting NO.

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

AMS Temporaries Incorporated, 1200003784; Guardian Angel Staffing Agency, 1200003785; Nursestaffing Group Kentucky, LLC, 1200003786. Kevin Mudd and Kathy Burke discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed without objection.

**DEPARTMENT FOR MEDICAID SERVICE:**

Health Management Systems Incorporated, 1200002974. Earl Gresham and Carl Ishmael discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

**DEPARTMENT FOR PUBLIC HEALTH:**

National Rural Recruitment & Retention Network, 1200002369. Chris Workman and Gary Kupchinsky discussed the contract with the committee. A motion was made by Senator McGaha to DEFER the contract to the September 2012 meeting of the committee. Representative Horlander seconded the motion, which passed without objection.

**EDUCATION, DEPARTMENT OF:**

Oneplus Services, LLC, 1300000046. Tom Stratton and Laura Arnold discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

**TRAVEL, DEPARTMENT OF:**

Connect-Worldwide International Incorporated, 1200003591; Access Marketing, 1200003672. Tim Pollard and

Mike Mangeot discussed the contracts with the committee. A motion was made by Senator McGaha to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed without objection.

**UNIVERSITY OF LOUISVILLE:**

Rangaswamy & Associates, 13-097; HDR Incorporated, 13-100; Carman Incorporated, 13-101. Mitchell Payne discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed without objection.

**THE FOLLOWING PERSONAL SERVICE CONTRACT FOR \$10,000 AND UNDER WAS SELECTED FOR FURTHER REVIEW:**

**WESTERN KENTUCKY UNIVERSITY:**

Carol Garrison, 121315. Susan Grey discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

**THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:**

**POST SECONDARY EDUCATION, COUNCIL ON:**

Kentucky Department of Education, 1200003042. Linda Linville, Karen Kidwell, Travis Powell, and Dianne Leveridge discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 11:40 AM.

**PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

Minutes

August 14, 2012

**Call to Order and Roll Call**

The Program Review and Investigations Committee met on Tuesday, August 14, 2012, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Fitz Steele, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Jimmy Higdon, Co-Chair; Representative Fitz Steele, Co-Chair; Senators Tom Buford, Perry B. Clark, Joey Pendleton, Dan “Malano” Seum, Brandon Smith, and Katie Stine; Representatives Leslie Combs, Jim DeCesare, Terry Mills, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

**Legislative Guest:** Representative John Will Stacy.

**Guests:** Secretary Leonard K. Peters, Kentucky Energy and Environment Cabinet. Commissioner R. Bruce Scott, Kentucky Department for Environmental



Protection. Commissioner Steve Hohmann, Kentucky Department for Natural Resources. Bill Bissett, President, Kentucky Coal Association. David Gooch, President, Coal Operators & Associates, Inc. Kim L. Nelson, Executive Director, Western Kentucky Coal Association.

**LRC Staff:** Greg Hager, Committee Staff Administrator; Colleen Kennedy; Katie Kirkland; Van Knowles; Lora Littleton; Jean Ann Myatt; William Spears; Joel Thomas; Leonard Evans, Graduate Fellow; Jenna Skop, Graduate Fellow; Stella Mountain, Committee Assistant; Program Review and Investigations Committee Staff. Mike Clark, Jonathan Roenker, LRC Staff Economists Office.

#### **Approve Minutes for July 12, 2012**

Upon motion made by Representative Simpson and seconded by Representative Mills, the minutes of the July 12, 2012 meeting were approved by voice vote, without objection.

#### **Importance of the Kentucky Coal Industry**

Representative Steele said that he is generally calm but that the targeting of the Eastern Kentucky and West Virginia coal industry angers him.

#### **Staff Report: Economic Contribution of the Kentucky Coal Industry**

Jonathan Roenker and Jean Ann Myatt presented the staff report *The Economic Contribution of the Kentucky Coal Industry*. Mr. Roenker said that coal production in the US has been steadily increasing since 1960 but the amount of coal mined in Kentucky has been declining since 1990. As of 2010, Kentucky was still the third largest coal-producing state; however, producing approximately 105 million tons. This represents almost 10 percent of the total volume of coal produced in the US that year. Historically, the majority of coal severed in the state comes from mines in the eastern Kentucky coal fields. This gap has narrowed in recent years as production from western Kentucky mines has increased, and production in eastern Kentucky has declined.

In 2010, Kentucky coal was shipped to 24 other states and to other countries. The majority of Kentucky coal is shipped to other states, primarily southeastern states. In 2010, of the over 42 million tons of coal shipped to end users located in Kentucky, more than 65 percent came from mines within the state.

In 2010, employment in the Kentucky coal industry was just over 19,000 employees, over a 60 percent drop since 1979. Coal mining's share of total employment in Kentucky was approximately 1 percent of all nonfarm jobs in the state in 2010. For the top 10 counties based on the number of coal mining employees, coal wages and employment often account for a large portion of total wages and employment—up to 45 percent of wages and up to 24 percent of employment. Over the past 10 years, in 7 of the 10 counties, coal

employment as a percentage of total county employment and coal wages as a percentage of total county wages grew.

In inflation-adjusted dollars, mine prices for US and Kentucky bituminous coal doubled in the decade ending in 2010. However, coal prices for central Appalachian coal have steadily declined since early 2011 to nearly \$50 per ton in early 2012. The increasing availability of low-cost natural gas has contributed to the declines in coal prices.

In nominal terms, Kentucky coal severance tax revenues peaked in 2012 at more than \$298 million. When comparing revenues in constant (2012) dollars, coal severance tax revenues were considerably higher in the late 1980s and early 1990s than now.

An industry's contribution to the state economy is composed of direct, indirect, and induced effects. The direct effect consists of the value of industry output, the jobs created, and the income paid to workers employed directly in the coal industry. The indirect effect includes employment and income in the economic sectors that supply or support the coal mining industry. The induced effect occurs as people employed in the coal mining and support sectors spend their earnings, creating additional employment and income.

In 2010, the coal mined in Kentucky was valued at \$6.4 billion. The direct economic contribution was 19,085 direct jobs in the state with total direct earnings of over \$1.7 billion. Applying the appropriate multipliers to the direct output, employment, and earnings figures allows for an estimate of the total economic contribution of the coal mining industry in Kentucky in 2010. In 2010, total output in Kentucky attributable to the coal industry was \$10 billion (\$6.4 billion direct plus \$3.6 billion indirect/induced), total employment was 42,078 (19,085 direct plus 22,923 indirect/induced), and total earnings were \$2.85 billion (\$1.70 direct plus \$1.15 billion indirect/induced).

The industry's activity in the state generates revenue for state and local governments through the sales tax, the individual income tax, and the coal severance tax. It is estimated that the total earnings of \$2.85 billion would result in sales tax revenues of approximately \$75.24 million. It is estimated that the total earnings of \$2.85 billion contributes approximately \$122.55 million in individual income tax receipts. Coal severance tax receipts in fiscal year 2010 in Kentucky were approximately \$271.9 million. Total annual receipts attributable to the Kentucky coal industry for these three taxes were an estimated \$469.7 million.

Ms. Myatt noted that the report did not cover all federal regulations that affect coal.

Clean Water Act Section 402 permits relate to storm or wastewater discharges into US waters and Section 404 permits relate to discharges of fill material into

navigable waters at specific locations. Since 2009, these are the primary permits being delayed by federal actions. One change affecting these permits is the US Environmental Protection Agency's (EPA) use of guidance documents. Guidance documents are meant to be further explanation of regulations and are nonbinding. In practice, EPA objections to Section 402 and 404 permits based on guidance specifications have slowed or stopped the process and backlogged permits. On July 31, 2012 a federal district court in Washington DC, ruled that the EPA had overstepped its authority in effectively denying permits based on new criteria within the guidance documents. Kentucky is a party to the lawsuit. It is unknown whether EPA will appeal the court's decision. For now, Section 402 and 404 permit applications will not be subject to the more stringent guidance document criteria.

Another change is the restricted use of general permits in favor of individual permits. General permits are more generic in nature; individual permits require more rigorous approval criteria, are site specific, and have a public comment period.

Another permit issue involves reclamation bonding requirements for surface mining permits. Bonding is required from mining companies to insure an area is properly and fully reclaimed after the mining operation ceases. The federal Office of Surface Mining deemed Kentucky's bond program as deficient. Kentucky has increased bond amounts and is working to establish a statewide mandatory bond pool. The bond pool would be a backup if an individual bond amount is deficient.

The federal Clean Air Act establishes various standards and rules to improve air quality from the effects of pollution. Utilities' coal-fired electric generating plants are the major contributor of several air pollutants including nitrogen oxides (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), carbon monoxide, and mercury. The greenhouse gas component, carbon dioxide, is also emitted by coal-fired electric generating plants. Clean Air Act regulations have been in place for 30 years, and emissions have decreased both nationally and in Kentucky during this time. National Ambient Air Quality Standards (NAAQS) relate to pollutants that endanger public health. NAAQS controlled pollutants relating to coal are sulfur dioxide (SO<sub>2</sub>), NO<sub>x</sub>, ozone, and particulate matter. From 2010-2013, allowable concentration levels of each of these pollutants have or will be lowered. With one exception, Kentucky is in compliance, but will have more non-attainment areas with the new requirements. With the new Mercury and Air Toxics Standards (MATS), fossil-fuel-fired plants—not just coal-fired plants—nationally overall are expected to reduce emissions of mercury by 91 percent, acid gases by 91 percent, and SO<sub>2</sub> by 55 percent from existing levels. This rule will most strongly impact plants without emission

controls in place. Many Kentucky coal-fired units are not equipped to fully comply with existing controls.

The proposed EPA Greenhouse Gas New Source Performance Standards rule would only apply to new sources of fossil-fuel-fired electric generation, not to existing units or modifications or reconstruction at existing units. The limit of CO<sub>2</sub> emissions proposed would not be attainable by new coal-fired plants with current technology. EPA references the use carbon capture and storage as a possible technological advancement to assist coal-fired plants with reducing CO<sub>2</sub>. This technology is still experimental, however. Officials from the Kentucky Division for Air Quality were unaware of any commercial projects using carbon capture and storage.

Mr. Roenker said that the price of natural gas used in the production of electricity has decreased significantly, typically attributed to two factors. One is that the recent mild winter led to an increased inventory of natural gas. More significantly, the supply of natural gas has increased due to relatively new extraction technologies such as hydraulic fracturing or "fracking." Dry shale gas production in the US has grown from less than 1 trillion cubic feet of production in 2000 to over 7 trillion cubic feet in 2011. This rapid growth in the supply of natural gas has had an impact on the price. The price per thousand cubic feet has declined since its peak in 2008 from \$12 to less than \$4, which is approximately the same price as in 2002. These lower natural gas prices are impacting how electricity is generated in the US. As of April 2012, generation from natural gas-fired plants in the US was nearly equal to generation from coal-fired plants.

The US Energy Information Administration has projected the total levelized cost of building and operating new electricity generating plants for plants entering service in 2017. Levelized costs represent the per megawatt-hour cost of both building and operating a generating facility over an assumed life cycle. Natural gas-fired electricity plants are currently projected to be the most cost-effective option.

Kentucky's coal-fired generator fleet is even older than the US fleet. Nearly 90 percent of the coal-fired generating units in Kentucky are at least 30 years old and nearly 62 percent are at least 40 years old. This is important given that electricity providers operating older coal-fired units will be faced with a decision on replacing this aging capacity.

In response to questions from Representative DeCesare, Ms. Myatt said that current technology would not meet the proposed EPA greenhouse gas rules if a new coal firing plant were to be built. No commercial entities are performing carbon capture. She deferred to the cabinet for further information.

In response to questions from Senator Stine, Mr. Roenker said that the information in a table on the estimated



levelized cost of new generating plants entering service in 2017 is a projection by the Energy Information Administration (EIA) and is a total cost measure including construction and operating costs. He said he would find out whether government subsidies are included in those costs.

In response to a question from Senator Higdon, Mr. Roenker said that staff looked at historical trends and did not make any projections regarding future costs of natural gas and electricity, but the Cabinet could possibly address this. The EIA makes such projections and this was not included in the report.

In response to questions from Senator Pendleton, Ms. Myatt said that approximately 2,000 permits, mostly general, have been issued per year in Kentucky. Mr. Scott would be able to furnish more information about the number of permits denied over the past four years. Representative Steele said that no permits have been issued in Eastern Kentucky over the past three years.

Representative Combs said that wind as a source of energy is not feasible for most parts of the US.

In response to questions from Representative Combs, Mr. Roenker said that 2010 data were the most recent available on total employment attributable to the coal mining industry. He said that the Lexington Herald-Leader estimated that, 2000 jobs directly related to the coal industry have been lost to date in 2012.

Senator Seum said that coal production in Kentucky results in low electricity rates that have attracted industry to this state, making a significant economic and fiscal contribution to the Kentucky economy. This should have been covered in the report. People in Jefferson County should be just as concerned about the survival of the coal industry.

Representative Steele said that those 2,000 lost jobs were in his district.

In response to a question from Representative Palumbo, Ms. Myatt said that in the past most permits were the general type. General permits are used for mining activities that are substantially similar in nature and are going to have minimum adverse effects on US waters. Individual permits require more approval criteria and have a public comment period. They are harder to obtain, thus the decrease in permits issued. The EPA favors the individual permits.

Representative Combs pointed out that, in 2010, roughly \$136 million from coal severance tax receipts went to Kentucky's General Fund.

Secretary Peters commended the report.

In response to questions from Representative Steele, Secretary Peters said that the cabinet was not invited to join EPA officials on their private tour to Eastern Kentucky. Mr. Scott said the EPA wanted to meet with members of the public directly.

In response to questions from Representative DeCesare, Secretary Peters

said that there has been a decline in direct mining jobs over the past 6 months but he has no exact numbers. He referred to a slide showing coal production. Eastern Kentucky production is expected to continue to decline.

In response to a previous question from Senator Stine and a request from Representative Combs for additional comments, Secretary Peters said that subsidies relevant to wind are included in levelized cost. EIA factors in reasonable permitting requirements and length of permitting time.

In response to a previous question from Representative Palumbo, Mr. Scott said the general permit is intended to cover a broad category of entities that have very similar activities such as individual home units with treated sewage. Individual permits are issued for unique types of activities that need to be addressed individually. In the coal industry, general permits are issued for similar activities, and individual permits are required for unique situations because of where they are located and the water resource they potentially affect.

In response to a previous question from Senator Seum, Secretary Peters said that electricity rates have contributed to the development of a strong manufacturing industry in Kentucky with approximately 200,000 employees. Kentucky has the fourth lowest electricity rate in the nation.

Secretary Peters said the Division for Air Quality is following the Greenhouse Gas New Source Performance Standards closely. Even with supercritical coal combustion, coal burning plants cannot meet the 1,000 pounds limit required for new power plants. It is unknown whether EPA will extend the proposed standards to existing power plants. Should that occur, it would have a major impact.

Senator Stine thanked Secretary Peters for his clarification, which confirms her assertion that the government is picking winners and losers by choosing to subsidize some industries and overly burdening others so that it would appear that one is more cost efficient than another.

Secretary Peters said there are no commercial-scale carbon capture storage projects active in the US.

In response to questions from Senator Higdon, Secretary Peters said that Florida and Georgia are the top two consumers of Kentucky coal. Florida has been shifting from coal to natural gas for electricity generation for several years; Georgia's shift to natural gas is more recent. It is a most difficult time to make projections on the future of coal in Kentucky. The price of natural gas is at an all-time low and is volatile. The lifetime of natural gas plants is unknown because they burn much hotter. If liquefied natural gas exports increase and the price of natural gas becomes more globalized, the domestic price for natural gas may also increase, which would increase the cost of electricity in Kentucky.

Senator Buford said that solar and wind are not significant sources of energy. Natural gas companies are already designing ways to export natural gas to Europe. This may affect the supply and demand in the US. He is concerned that many power utility facilities will be converted to natural gas and will later need to go back to coal as a source of energy.

In response to questions from Senator Buford, Secretary Peters said that India and China will be the largest energy growth markets over the next several decades. India already is having problems with its electric grid and being able to meet demands. Both countries are building coal burning facilities and are looking for additional sources of coal. They cannot get as much coal from that part of the world as they want, so international exports will grow. China has considerable reserves; India has fewer reserves. Secretary Peters said that 90 percent of base load generation comes from coal, natural gas, and nuclear, yet most time and money is spent addressing the remaining 10 percent such as renewables and hydroelectric. Much can still be done with conventional base load generation sources to make them more efficient, more effective, and have positive effects on electricity use in the US. Until there is a major breakthrough in storage, wind and solar will not be significant contributors to base load generation.

In response to a question from Senator Seum, Mr. Scott said that Kentucky has been in litigation with the federal government only in the past few years. Regulatory initiatives do not recognize regional variance. Secretary Peters said that until there is an effective national energy policy, there will be a de facto energy policy through environmental regulation.

Senator Smith said the lack of an energy policy is hurting Kentucky; national control is frustrating.

At the suggestion of Senator Smith, Representative Steele asked for a moment of silence in memory of Mr. Michael Haydon.

Representative Combs said that there is no legislative review of regulations at the federal level as there is in Kentucky. She gave background information to explain that it was the US Supreme Court that authorized EPA to regulate greenhouse gases.

Secretary Peters said the Kentucky legislature has been very supportive of energy research being done at Kentucky universities and should be proud of it. He described promising research at the universities.

Senator Clark said that Germany is pursuing solar energy. The price of solar panels has decreased by two-thirds since 2006. Germany is looking at 25 percent of its domestic production of energy coming from solar by 2050. Germany has similar weather conditions as Kentucky and solar energy is not impossible.

Mr. Bissett gave an update of the

coal industry. He said that organic and man-made factors are contributing to the uncertainty of its future. These factors include the price of coal versus that of natural gas, the previous warm winter and mild summer; the anti-coal administration in Washington, and the lack of a true economic rebound. He suggests a multiplier of three to one for jobs lost in the coal industry. He gave an update on the Kentucky Coal Association litigation with the EPA.

"Friends of Coal" is a volunteer organization that promotes coal. More than 57,000 "Friends of Coal" license plates and more than 1,800 motorcycle license plates have been sold at \$10 each. Half of that amount is used for promotion and the other half is used for scholarships.

Mr. Gooch said that membership of the Coal Operators & Associates, Inc. includes "mom and pop" operations with 10 to 15 employees. He said the impact of unemployment happens over time as support industries that provide services to coal employees lose customers. Kentucky's natural gas industry is also hurting because of competition from cheap natural gas from the Northeast.

In response to a question from Senator Smith, Mr. Bissett said that the 2,000 jobs lost are direct jobs, but there have been layoffs in other areas too.

Senator Smith said that Kentucky has dry gas and the shift has been to wet gas available in Pennsylvania and elsewhere. The coal and natural gas industries are forced to compete, which is bad for both industries.

Senator Seum said that coal is one of Kentucky's signature industries and a better job could be done in selling the industry.

Mr. Nelson said that the Western Kentucky Coal Association has tried for years to promote coal but it is difficult with a liberal press in the state. The "Friends of Coal" campaign is a success. The Illinois basin coals are similar in quality and mining techniques. The Western Kentucky coal industry has experienced significant growth, with almost 4,000 miners working in seven or eight counties. Kentucky has been able to attract major industry because of low energy costs. Western Kentucky lost market share due to concerns with high sulfur coal causing acid rain. With the strict EPA regulations, many Western Kentucky utilities have installed scrubbers and production has increased.

Electricity is going to become more expensive as the government is pushing natural gas; cheap energy is going to be lost. Western Kentucky is on the verge of losing its aluminum smelters.

Mr. Nelson noted a front page article in the Courier-Journal on the Natural Resources Defense Council quoting a 27 percent increase in toxins in Kentucky in one year but state officials said that the increase was less than half the quoted number. The paper retracted the number to 11 percent.

Mr. Nelson said that not only the



EPA but every federal agency is trying to end the use of coal. Moving from coal to natural gas will be an economic disaster for Kentucky.

Representative Combs referred to a presentation she had seen in which scenes of mountaintop mining were interspersed scenes of road building, which made the point that mining is similar to other industries.

Senator Pendleton said that the dairy industry is facing the same issues as the coal industry, with loss of jobs and farmers going out of business because of regulations enforced on the federal level.

Representative Steele said that GE Industrial Park will be lost if electricity rates go up.

In response to questions from Representative Simpson, Mr. Gooch said that there is a tax on natural gas similar to the coal severance tax. Natural gas is coming into Kentucky because wet gas in other states is recovered by fracking, which is a more efficient method of drilling and thus cheaper than the dry gas from Kentucky.

Upon motion by Senator Pendleton and second by Representative Combs, the report was adopted by roll call vote.

The meeting adjourned at 12:00.

## 2012 SS HB 1 IMPLEMENTATION AND OVERSIGHT COMMITTEE

Minutes of the 2nd Meeting  
of the 2012 Interim

August 15, 2012

### Call to Order and Roll Call

The 2nd meeting of the 2012 SS HB 1 Implementation and Oversight Committee was held on Wednesday, August 15, 2012, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Robert Stivers II, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative John Tilley, Co-Chair; Senators Jimmy Higdon and Ray S. Jones II; Representatives Linda Belcher and Sara Beth Gregory.

Guests: Kathleen M. Luchtefeld, General Counsel, and Heather C. Wright, Chief Executive Officer, The Pain Treatment Center of the Bluegrass; John Cooper, Kentucky Medical Association; Connie Calvert, Executive Director, Kentucky Board of Optometric Examiners; Steven Stack, MD, St. Joseph East Emergency Room Medical Director, on behalf of himself and Emergency Physicians; Beth Partin, DNP, APRN, Vice-President, Kentucky Coalition of Nurse Practitioners and Nurse Midwives; Breena Angel, WUKY; Dennis Stone, MD, Signature Healthcare; Melissa Platt, MD, President, Kentucky Chapter, American College of Emergency Physicians; Gregory A. Hood, MD, FACP, Governor, Kentucky Chapter, American College of Physicians; Carole Christian, Wyatt, Tarrant, and Combs; Ward Begley, Chief Legal Officer, Owensboro Medical

Health System; Bill Bryant, MD, FAAFP, Member, Kentucky Academy of Family Physicians and Owensboro Medical Health System; Terry Sweatt, CRNA, President-Elect, Association of Nurse Anesthetists; Sheila Schuster, Nurse Practitioners and Nurse Anesthetists; M. E. Kobes, Bluegrass Prevention Center; Shawn Jones, MD, President, Kentucky Medical Association; William E. (“Bill”) Doll, Attorney, Jackson Kelly, PLLC, on behalf of Kentucky Medical Association; Mary Haynes, Kentucky Association of Health Care Facilities, Chief Executive Officer and Administrator, Nazareth Home; Bonnie Lazor, MD, Kentucky Association of Health Care Facilities/Vintage Care; Kari Shields, MD, CMD, Diversicare, Our Lady of Bellefonte Hospital, Ashland, KY; Sandra King, Assistant Administrator, Kentucky Association of Health Care Facilities, Nazareth Home; William “Chip” Adam, JD, Adams Law Firm, on behalf of Murray-Calloway County Hospital, and as a citizen; Mike Porter, Kentucky Dental Association; Representatives Westrom and Stacy, among others.

LRC Staff: Jon Grate and Marlene Rutherford.

Chair Stivers advised that the meeting would adjourn by 3:00 p.m. to allow individuals to participate in or attend the memorial service in the rotunda for Mike Haydon and that, given the time constraints, the committee would be initially receiving comments only, with questions and answers reserved until all presenters were finished.

### Institutional, Practitioner, and Pharmacist Testimony on HB 1 Implementation

Brian Brezosky and Roz Cordini appeared on behalf of the Kentucky Hospital Association (KHA), and were joined by Chip Adams speaking on behalf of the Murray-Calloway County Hospital, to discuss the affects of House Bill 1 and its associated regulations on medical institutions.

Ms. Cordini, a registered nurse and attorney, indicated that her oral and written testimony on behalf of KHA would focus on correcting some unintended consequences from the legislation, the regulations, and the mandatory prescribing and dispensing standards found in both, particularly in regard to hospitals, long-term care facilities, nursing homes, and other licensed facilities where drugs are ordered by physicians and directly administered into the bodies of patients. After acknowledging the intent of House Bill 1 to close down pill mills and address the drug abuse epidemic in the state, she referred the committee to a Drug Enforcement Administration report on the abuse of Hydrocodone-based drugs that indicates that the primary modes these drugs are obtained are bogus prescription call-ins to pharmacies, altered or forged prescriptions, and drugs illegally obtained on the internet, and not via drugs directly administered in a hospital, emergency department, or other institutional setting.

In regard to prescribing standards, Ms. Cordini testified that the law now required time consuming actions prior to prescribing a scheduled drug, and that the “prior to” requirement was an impediment to the timely delivery of needed medical care.

Further, the 24-hour operating nature of hospitals does not always allow the “prior to” requirement to be met, offering the example of a physician now being required to report to the hospital in the middle of the night to do a physical exam, where prior practice would have allowed a called-in order to suffice until the morning. Ms. Cordini observed that hospitals and other institutions are already heavily regulated, with their actions being controlled and measured by regulatory agencies, and that the delays in care occasioned by House Bill 1 conflict with other regulatory requirements to deliver prompt and effective care. And in regard to regulatory requirements, she noted that the different drugs, exemptions, and prescribing and dispensing protocols established by the bill and the regulations are confusing and can be in conflict, resulting in burdensome confusion for the honest practitioner.

Ms. Cordini offered proposed language on behalf of KHA that would restrict the licensing boards from promulgating prescribing and dispensing standards in institutional settings, that would clarify various terms used in the legislation, allow the KASPER query requirement to be bypassed in limited situations, that would clarify the situations and locations where the emergency exemption allowed by the bill could be utilized, that would exempt non-hospice end of life care, that would eliminate the need for hospitals to report to KASPER drugs that are directly administered to a patient, and which would provide better statutory guidance for physician delegates accessing KASPER in institutional settings.

Bryan Brezosky discussed two issues of concern. The first deals with the new ability of a physician to designate an employee of the physician’s practice to access KASPER on behalf of the physician. In the hospital setting, this authority is problematic, as many of the doctors practicing in the hospital are not actual hospital employees. With the potential for misuse of private KASPER information, clear lines of authority need to be drawn as to whom may be delegated access, and who may audit the use of that access. While the KASPER system is working to create institutional accounts that may be controlled by hospitals, the KHA requested statutory language specifically authorizing this added functionality. The second issue dealt with the new requirement that hospitals report to KASPER every seven days the amount of Schedule II and Schedule III drugs containing Hydrocodone administered to patients in the hospital. This requirement is problematic in that hospital dosing

orders can allow a range of dosages to be used by the nursing staff dependent upon need, making reporting of amounts actually administered very difficult. As the requirement serves little purpose since there is little chance of diversion of a drug that is administered directly to a patient, he asked that the requirement be eliminated.

Chip Adams, a private attorney with hospital and practitioner clients, also spoke as part of the KHA presentation. He suggested that medical care in an acute care setting where medication is directly administered would be an appropriate place to create a House Bill 1 exemption, while leaving in place the KASPER requirement for physician office and emergency room care. He also testified that the regulatory requirement that some patients be referred to addiction management is difficult to meet in areas of the state where these services are not present in the community. The regulatory requirement to report doctor shopping but not drug diversion seemed confusing, and that if reporting is required, some good faith immunity should be granted as is the case for required child abuse reporting. Mr. Adams suggested additional clarity on the role of law enforcement in receiving these reports, and that perhaps designated law enforcement agencies or task forces should be specified. He spoke in favor of the bill’s provision allowing prosecutorial KASPER access, and finished with a discussion of the problems that can arise from the mandatory objective standards of care for physicians established by the bill and the regulations when there is the possibility of subjective interpretations by regulatory and law enforcement personnel.

Doctors Bratton and Harned provided comments on behalf of the Lexington Clinic. Doctor Bratton stated that it was not his intention to criticize House Bill 1 but to offer suggestions to better protect patients and provide reasonable and clear guidelines for physicians. He referred members to a written issue list that was included in the meeting packet containing their concerns and suggested remedial actions. Among the concerns discussed were the need to clarify the types of medication to be covered, the requirement for a complete history and physical for symptoms or procedures where that was not appropriate, the unnecessary complications created by the requirements in a group practice setting that utilizes common electronic health records, and the ability of physician extenders such as physician assistants to perform required compliance actions. He suggested that patients in institutions should be exempt since those patients must be treated for their pain regardless of a KASPER result or prior history, that a one to three day supply of a controlled substance should be exempt from the current guidelines, that better guidelines were needed for suspicious KASPER reporting to law enforcement, for KASPER error reporting, and for the timelines for when



a KASPER report should be run. Finally, he alerted the committee to impending compliance cost issues, as many of the required prescribing protocols were costs that would be borne directly by patients as insurance, Medicaid, and Medicare would not reimburse for those additional costs.

Doctor Michael Harned, an intervention pain physician at the Lexington Clinic and consultant to the Kentucky Board of Medical Licensure, spoke from the perspective of an interventional pain specialist who relies primarily on non-drug therapies to treat pain, but who follows all recommended treatment and monitoring guidelines when prescribing opiates. He briefed the committee on the unintended consequence of House Bill 1 creating a chilling effect on the prescribing practices of primary care physicians, who in turn refer their patients on to pain clinics in lieu of continuing the prescribing in their own offices. As a result of this outflow, his appointment slots have been overfilled, causing legitimate patients to wait weeks for care. This delay will lead patients to seek other relief, such as alcohol, out of state physicians, or internet prescriptions. He alerted the committee to potential problems with the quality of KASPER reports, bringing an example of two different reports on the same individual which had greatly different data despite being run only 24 hours apart. At the suggestion of Chair Stivers, the doctor agreed to discuss those reports after the meeting with KASPER system employees who were present at the committee room.

Dr. Shawn Jones, MD, a practicing Paducah physician and current President of the Kentucky Medical Association (KMA) testified alongside their legislative liaison, Bill Doll. Doctor Jones observed that House Bill 1 has gone a long way towards shutting down many illegitimate pain clinics, a longstanding goal of the medical community. He stated that the KMA supported upgrades to KASPER to improve usability, and the statutory changes allowing increased flexibility in access, such as allowing reverse KASPERs. However, the bill and the regulations are overbroad in that they cover situations where the KMA has not observed problems, such as with ADD/ADHD, testosterone usage, and post-surgical pain. Dr. Jones lamented the civil and criminal liability faced by an honest physician who makes an inadvertent mistake in complying with the new statutory and regulatory requirements, and the chilling effect that would have on the practice of medicine and consequent restriction on the availability of care. The KMA would be making suggestions to balance the need to shut down pill mills with the need to continue to allow full access to legitimate quality medical care. He suggested that rather than set protocols that cannot cover every medical situation, the required protocols other than the KASPER check should be removed so that patients in a variety of situations will not face additional time and expense

obtaining necessary medication.

Dr. Jones suggested additional exemptions to the KASPER query requirement, such as in pre and post-operative situations, nonsurgical or other procedure that requires anesthesia or sedation, shoulder and joint reduction, sedation necessary for dressing changes, radiological procedures, and cardiac catheterizations. Additional exemptions should be made for patients with cancer, hospital and institutional patients, young children, and group practices. He suggested that it should be clear that needed treatment should be allowed regardless of the results of a KASPER report. To reduce confusion, he suggested that the legislature remove the KBML's ability to promulgate regulations on drugs not specifically regulated by House Bill 1. In regard to the regulations themselves, he stated that they are confusing, especially to physicians who must prescribe as part of a long-term treatment regimen and that unless changes are addressed there will be an increase in healthcare costs that are paid by insurers, government paid programs, or the patient directly.

Melissa Platt, MD and President of the Kentucky Chapter, American College of Emergency Physicians (ACEP), and Steven J. Stack, MD, Fellow of the American College of Emergency Physicians (FACEP) and emergency room physician practicing within Kentucky One Health, addressed the committee.

Doctor Stack testified that House Bill 1 and the regulations create an overly aggressive and intricate web of mandatory researching, querying, reporting, investigating, and sanctioning of physicians trying to provide honest and appropriate medical care. Further, the law's level of specificity in care delivery and documentation is not consistent with the realities of medical practice and confronts physicians with the untenable binary decision to comply with the statute and regulations or with medical ethics and accepted clinical standards of care. Doctor Stack referred the committee to his written comments that offer discreet and focused examples of how the Legislature, executive branch, and healthcare community can work together to identify and address areas of concern mandated by the requirements of House Bill 1 and associated regulations, the clinical concerns from a physicians perspective, and provided examples or situations where it would not be possible to comply with the statutory or regulatory requirements, and offered suggested language or amendments to the statute and regulations. He specifically discussed the blurring of the meaning of the terms "prescribing" and "administering" as applied to emergencies and surgery, with the blurring causing all emergency department prescriptions having to comply with House Bill 1. He also stated that the documentation related to an inability to query KASPER is of no clinical value, and that the requirement that coroners notify licensing boards of drug overdose deaths

will have a chilling effect on the practice of emergency medicine.

Doctor Platt stated that some aspects of House Bill 1 and the regulations do not fit well into the actual practice of real time emergency medicine. While she agrees with other groups that there is a need for KASPER institutional accounts or for select KASPER queries, she also believes that there is a need to re-work regulations relating to the limited use of IV or shot medications for acute exacerbations of chronic pain, the seventy-two hour time limit on prescriptions, and the strong discouragement of administering Demerol. She believes that the regulatory expansion to cover all scheduled drugs ties a physician's medical hands when trying to treat pain. She also said that singling out a specific medication such as Demerol establishes inequity across professions and that if this medication is discouraged it should be discouraged throughout all specialties and health care providers. She indicated that other items in the statute and regulations need clarification, including the exemption for emergency situations so that needed care is not delayed. Finally, she asked if clarity could be given to the overlap between the emergency physician specific regulations and the regulatory exemptions given to cancer and hospice patients.

Next to present testimony were Gregory A. Hood, MD, Fellow of the American College of Physicians, who is also Governor of the Kentucky Chapter of the American College of Physicians, and Bill Bryant, MD, Fellow, American Academy of Family Physicians, and member of the Kentucky Academy of Family Physicians.

Doctor Hood discussed the impact of urine drug screen requirement on vulnerable patients, given the lack of insurance coverage of these tests by private companies and Medicare. Doctor Hood pointed out that it is difficult to understand the consideration of legalization of marijuana while at the same time criminalizing such drugs as Ambien and Ritalin. KASPER delays can reach two hours in time, and pain clinics are not scheduling appointments for patients referred to them. With regulations mandating repeated appointments, the limited number of appointments a doctor can schedule will lower the number of persons who can receive care. Further, the expense of meeting these additional requirements coupled with an upcoming cut in Medicare funding will threaten the viability of primary care practices. Dr. Hood testified that his written material provided numerous examples of issues that need to be clarified, and that the material included suggested solutions to each of those problems. Dr. Hood specifically recommended an exemption for a non-refillable prescription related to surgery or when the amount would not exceed seven days of dosage. He would also exempt drugs dispensed for dialysis and cancer patients.

Doctor Bryant, a family and long term care physician in Owensboro and the Patient Safety Officer for the Owensboro Medical Health System, expressed concerns related to appropriate pain management, the impact on care delivery, and patient safety. He said that the majority of patients who receive controlled substances are not drug abusers and they should not be treated like criminals, and even drug abusers deserve compassionate treatment when they have legitimate pain. Further, he observed that most prescription drug diversion occurs in the home and not in institutional or clinical settings. Finally, he observed that the law is overbroad, will increase expenses, and delay treatment. Doctor Bryant proposed re-thinking House Bill 1 utilizing the patient safety concept of a fair and just culture. He said that everyone working together can reduce controlled prescription misuse and diversion while improving pain management and healthcare delivery in the state, that it is difficult to provide controlled substances to long-term care patients due to current Drug Enforcement Act laws, and that with the passage and implementation of House Bill 1 and associated regulations that these difficulties are multiplied in long-term care due to the volume and frequency of needs.

Terry Sweatt, Certified Registered Nurse Anesthetist and President-Election of the Kentucky Association of Nurse Anesthetists, an organization of over 1,100 registered nurse anesthetists in Kentucky, offered brief comments. He said that the exemptions covering pre-surgical and surgical situations should be extended to cover post surgical care as well.

Beth Partin, APRN, and Vice-President and legislative liaison for the Kentucky Coalition of Nurse Practitioners and Nurse Midwives, addressed the committee. She identified areas of nurses' concerns and provided recommendations:

For surgery, painful procedures and obstetrics, she recommended expanding current exemptions to cover drugs administered immediately following surgery, drugs administered immediately prior to, during and following a painful procedure such as a colonoscopy, and drugs administered immediately prior to and following childbirth;

The requirement to obtain a written consent should be deleted because illegal drug seekers will sign any form and older patients feel that signing the form makes them feel as if they have done something wrong;

Minors who have been previously diagnosed with ADD and ADHD should receive an exemption;

neo-natal patients should be KASPER exempt because those infants may not have a name or social security number yet may still need scheduled drugs;

Prison inmates should be exempted because prisons use electronic health records and the inmates are monitored, and with the same perhaps being true of



jail inmates as well;

An exemption should be allowed for a seventy-two hour supply of a medication for a regular patient not being treated for chronic pain who may be distraught because of a death in the family or other situation; and

That the continuing education requirements be modified to include provider safety issues as threatening situations have already occurred from unhappy illegal drug seekers, and others may arise as drug seeking behavior is reported to law enforcement.

Bob McFalls, Executive Director of the Kentucky Pharmacists Association, and Barry L. Eadens, Director of Pharmacy at Western Baptist Hospital in Paducah, testified next. Mr. McFalls said that pharmacists are supportive of the principles and goals of House Bill 1, but that three areas need clarification. First, there is confusion in the long term care setting where community pharmacies provide drugs for residents as to whether KASPER reporting is required. Secondly, where HB 1 requires the reporting of a robbery or theft of a controlled substance in a pharmacy, the current form the federal DEA requires to report the loss should also be allowed for use in making the state report. Third, he suggested it would be beneficial to establish a centralized source for information on the provisions of House Bill 1 with a designated centralized clearinghouse or a lead agency to identify overall data needs and trends that can be shared across provider disciplines or a portal of entry for questions and coordination of responses in situations that involve practitioners from different provider settings.

Mr. Barry Eadens testified that House Bill 1 places a new KASPER reporting requirement on hospitals and other facilities that administer drugs directly to patients. Unlike retail pharmacies, a hospital uses unit of use or unit dose distribution which means that every dose administered is also a separate dispense and separate KASPER entry. An individual admitted for emergency surgery could easily have ten or twelve line transactions in a twelve hour period, with a five to seven day stay generating several pages of documentation. Moving to the big picture, he stated that Baptist Healthcare System in Kentucky alone should transmit two million new lines of data in the first year. He believes that this vast influx of new data may be confusing not only as to sheer volume but also because the data arises from an institutional acute care setting, which is different than how the patient is responding to pain management in the home and the data will not reveal drug-seeking behavior by the patient. He concluded by urging reconsideration of the acute care reporting

requirements contained in House Bill 1 and the regulations.

To conclude the meeting, Chair Stivers again apologized for the time constraints and invited those unable to speak due to a lack of time to return and present at a later meeting. He also stated that, while the committee understands that there are issues with the bill and the regulations, he feels there is also substantial miscommunication and misunderstanding in the regulated community about the actual requirements of the bill and regulations. He finished by stating that insightful and constructive comments have been made and there will continue to be discussion.

The meeting adjourned at about 2:55 p.m.

## **TASK FORCE ON KENTUCKY PUBLIC PENSIONS**

Minutes of the 3rd Meeting  
of the 2012 Interim  
August 21, 2012

### **Call to Order and Roll Call**

The third meeting of the Task Force on Kentucky Public Pensions was held on Tuesday, August 21, 2012, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Mike Cherry, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Mike Cherry, Co-Chair; Senators Jimmy Higdon, Paul Hornback, Bob Leeper, Joey Pendleton, Dorsey Ridley, and Mike Wilson; Representatives Derrick Graham, Brad Montell, Rick Rand, and Brent Yonts.

Guests: Representatives Arnold Simpson and Addia Wuchner; Steve Shannon, Kentucky Association of Regional Mental Health/Mental Retardation Programs; Dave Adkisson, Kentucky Chamber of Commerce; Tommy Turner, Kentucky Association of Counties; J. D. Chaney, Kentucky League of Cities; Leon Mooneyhan and Shannon Stiglitz, 3KT; Joe Baer, Kentucky Professional Firefighters Association; Ron Saathoff, International Association of Professional Firefighters; Paul Looney, Kentucky Association of Transportation Employees; Brent Sweger, Kentucky Association of Transportation Engineers; Dan Doonan, AFSCME International; David Warrick, AFSCME Council 62; Paul Guffey and Shirley Clark, Kentucky Public Retirees; Mary Ruble and Helen Cottongim, Kentucky Education Association; Terry Donoghue, Northern Kentucky Tea Party; Jim Waters, Bluegrass Institute; Lowell Reese, *Kentucky Roll Call*; David Draine, Pew Center on the States; and Josh McGee, Laura and John Arnold Foundation.

LRC Staff: Judy Fritz, Brad Gross, Jennifer Hays, Frank Willey, Greg Woosley, and Peggy Sciantarelli.

### **Approval of Minutes**

The minutes of the July 24 meeting were approved without objection, upon motion by Representative Yonts.

### **Opening Remarks**

Senator Thayer said the Task Force will soon be working to develop recommendations and that the purpose of the meeting is to hear suggestions for possible solutions to the pension funding problem. Representative Cherry discussed factors that have led to pension underfunding.

### **TESTIMONY FROM INTERESTED GROUPS/ ORGANIZATIONS**

#### **Kentucky Association of Regional Mental Health/Mental Retardation Programs (KARP)**

The guest Speaker was Steve Shannon, Executive Director. KARP is the association representing Kentucky's 14 community mental health centers (CMHCs), which were established by the General Assembly in 1966. Copies of his prepared statement were provided.

Mr. Shannon said CMHCs support approximately one of every 25 Kentuckians and employ about 9,000 individuals. There are 310 voluntary board members serving on 14 regional boards. In FYs 2011 and 2012, CMHCs spent approximately \$104 million on contributions to the Kentucky Employees Retirement System (KERS)—equivalent to the budget of four reasonably sized CMHCs. The significant increase in the employer contribution to KERS poses the greatest threat to the financial stability of the participating CMHCs. Since FY 2006, the KERS-mandated employer contribution has increased from 5.89 percent to 23.61 percent and is set to increase to 26.79 percent in FY 2014. This unfunded mandate cannot be sustained and could result in bankruptcy for some CMHCs.

The employer contribution impacts all facets of operations of the participating CMHCs. The escalating KERS contribution hampers the ability to secure competitive grant funding and competitively negotiate with the three Medicaid managed care organizations. It restricts service diversification, expansions to new markets, and expansion of needed services for returning members of the Kentucky National Guard and Reserves. There is reluctance to hire new staff, salary levels have become less competitive, and other employee benefits, such as tuition reimbursement, are weakened.

CMHCs appreciate action of the General Assembly in the 2010 Regular and Special Sessions to include in the budget approximately \$2.5 million for FY 2011 and \$3.8 million for FY 2012 to assist CMHCs. Language was also included to permit the funding expansion as a state match to draw down federal dollars through Medicaid, thus turning approximately \$6.3 million into \$21 million. The intent of the General Assembly was to fund a Medicaid rate increase in FY 2011 and 2012 to help cover the increased KERS cost. However, CMHCs have not realized any of the additional funding to date. CMHCs are committed to using the appropriation as a state match for additional federal dollars,

as opposed to just receiving General Fund dollars. CMHCs are working with Kentucky Medicaid officials to submit the necessary information to the Centers for Medicare & Medicaid Services.

KARP believes that any proposed solutions should not put additional burden on Kentucky Retirement Systems (KRS), must not jeopardize the KERS benefit of CMHC retirees or current vested employees, should prohibit the migration of current vested employees to an alternative retirement plan, and must provide immediate and long-term relief to CMHCs.

KARP offers the following solutions for consideration: fund the increased employer contribution in the budget, as was done during the 2010 regular and special sessions; direct CMHCs to pay a base rate—perhaps the first 15 percent—with the remainder funded in the biennial budget; issue a pension bond to help address the unfunded liability; permit CMHCs to offer an alternative defined contribution retirement plan to new hires after a date certain; and amend KRS 61.520 to permit KRS to treat CMHCs the same as regional universities. KARP feels that a 401(k) option for new hires would be very appropriate; it might not benefit but would not harm KRS. There were no questions for Mr. Shannon.

#### **Kentucky Chamber of Commerce**

The guest speaker was Dave Adkisson, President and Chief Executive Officer. His prepared statement was not available at the meeting but may be obtained from task force staff.

Mr. Adkisson said the Chamber believes the work of the Task Force is the most important and urgent task of state government in advance of the 2013 regular session. Kentucky's business community contributes about 40 percent of state revenue in income, corporate and sales taxes, and the Chamber is concerned about the unsustainable trends in public employee benefits. Increased spending on benefits is taking needed funding away from education at all levels. This is particularly disturbing because education attainment is key to growing the economy. The Chamber commends the Governor and the General Assembly for acting in 2008 to address state retirement benefits but believes more aggressive action is required.

The Chamber believes that public health benefits are generally out of line with the private sector and that Kentucky can significantly lower its unfunded liability by meaningful changes to health benefits for active employees. The Kentucky Employee Health Plan reports that state government paid more than \$7,000 per year for single coverage in 2011, or 90 percent of premium costs. This cost is 50 percent higher than the cost of health insurance in the private sector. The Chamber has advocated that state employees be required to pay at least \$50 per month for health insurance benefits and recommends more aggressive wellness activities for public



employees. Mr. Adkisson complimented the action taken by the Kentucky Teachers Retirement System (KTRS) to reduce health insurance costs.

The Chamber further recommends: provide no COLAs for retirees until the system is more adequately funded; place new employees in a defined contribution plan, with a portion of the employer share of the contribution used to fund a bond issue to help finance transition from the current defined benefit program; provide financial incentives for current employees to convert to the new plan, to help limit the unfunded liability; amend KRS 61.650 to require the KRS Board of Trustees to consider the impact on the state budget of retirement benefit changes that they recommend or support; and prohibit the practice of “double dipping,” which compounds the pension problems and is not allowed in the private sector. Mr. Adkisson stated that the Kentucky Chamber is willing to work with the Task Force and to support meaningful changes to the pension system. There was a brief discussion of transition costs and bonding in response to comments from Representative Yonts.

#### **Kentucky Association of Counties (KACo)**

The guest speaker was Tommy Turner, LaRue County Judge/Executive and President-elect of KACo. Copies of his prepared statement were provided. He emphasized that KACo supports the commitment of the inviolable contract for current and retired KRS members.

Mr. Turner described hybrid plans—used in Virginia, Utah, and New York—and Kansas’ cash balance system. KACo proposes that either option would adequately provide for future employees’ retirement, ensure that they would not face a future funding crisis, and address the fact that current KRS contribution rates are using a disproportionate percentage of limited resources.

To address the unfunded liability of the County Employees Retirement System (CERS), KACo proposes issuance of a bond, freezing the current employer contribution rate, lowering the current tax exemption on retirement income, and creating a separate governing board for CERS. The unfunded liability of CERS is currently estimated at \$6.9 billion. If an 80 percent threshold would be considered an adequately funded amount, a \$5.5 billion bond issue, with historically low bond rates, would place CERS at that threshold. The FY 2013 CERS-nonhazardous employer contribution rate is 19.55 percent, and the hazardous duty rate is 37.6 percent. With a bond issue pushing the funding level of CERS to the 80 percent threshold, the balance of the employer contribution above the normal contribution rate could be used to pay the debt service for the bond—approximately \$40 million monthly. This would also give long-term rate consistency to struggling local governments. Current law exempts from state income tax the first \$41,110

of all forms of both public and private retirement income. According to the Governor’s Office for Economic Analysis, for every \$1,000 decrease in the exemption, \$25.3 million would be realized annually to help pay the debt service on bonds for CERS. KACo proposes that lowering the exemption be coupled with a sunset provision that would expire when the bond is retired.

KACo asks that the Pensions Task Force review the possibility of allowing CERS to be governed by its own board. Local governments have been consistent in paying 100 percent of the required employer contribution. CERS, currently funded at about 63 percent, is not anticipated to experience the cash flow problem currently projected for KERS. The KRS Board must make investment decisions on behalf of all five plans based on the cash flow needs of the most poorly funded program in the system. With a separate board, CERS would be in a better position to adjust investment options to a more long-term, higher yielding investment strategy. Mr. Turner closed by stating that KACo wants to be a partner in reaching a solution to the pension crisis. There were no questions from the Task Force.

#### **Kentucky League of Cities (KLC)**

J. D. Chaney, Chief Governmental Affairs Officer, was guest speaker. He provided the members with a copy of his slide presentation and two recent KLC research briefs: “New GASB Rules to Affect Pension Reporting,” and “Hybrid Approaches to Public Pension Plans.”

Mr. Chaney focused his remarks on CERS. He said Kentucky cities have voted pension reform as their top legislative priority for the past five legislative sessions, and it will no doubt be the top priority for the 2013 regular session. The employer contribution rate for nonhazardous employees is 19.55 percent and 37.6 percent for hazardous duty employees—250 percent higher than in 1991. This year it is expected that city governments will pay \$212 million into CERS. Continuing on the current path, by 2031 nonhazardous duty rates are projected to reach more than 25 percent, and hazardous duty rates 55 percent. Despite the good reforms enacted in 2004 and 2008, KRS’s own actuarial numbers show a disturbing trend of continuously increasing rates with no relief in sight for the next 18 years. The contribution rates for cities are not affordable or sustainable without significant cuts in the workforce and employee compensation.

Two basic principles guide the KLC Board of Directors’ legislative agenda: short-term employer contribution rate relief, and a new pension model for new employees to ensure long-term predictability and sustainability of the system. The Board supports changes to cost-of-living adjustments (COLAs); adopting an 80 percent full funding standard; changes in health insurance; limited changes for active employees—

but only if needed to achieve short-term rate relief; and transition to a defined contribution or hybrid plan for new hires.

Based on actuarial information provided by KRS, permanent elimination of COLAs would bring contribution levels down and significantly reduce the employer contribution rate by the year 2031. Because of the impact on current retirees, KLC proposes allowing current employees and new hires the option to fund their own COLAs. If established appropriately, this would result in additional funds coming into the system. In addition, current retirees could choose a reduced benefit for a number of years in order to receive COLAs in the later years of retirement. Those who have been retired for more than 10 years might be granted an automatic COLA, unless suspended by the General Assembly.

Experts consider a funded ratio of 80 percent or better to be sound for government pensions. Targeting 80-85 percent instead of 100 percent funding for CERS would immediately lower the employer contribution rate while not jeopardizing integrity of the system or breaching the inviolable contract. After 80 percent funding has been met, the additional 20 percent of unfunded liability could be reamortized over a longer period of time to keep rates at a lower, more affordable level.

KLC proposes that the unfunded liability in the KRS health insurance trust could be reduced by changing the health insurance plans offered to active state employees. Bonding the unfunded liability deserves further examination and is one of the few options available to provide short-term rate relief to cities. If relief cannot be provided by other means, the KLC board is open to increasing the employee contribution rate for employees not yet vested and asking employees to contribute more in order to earn future benefits. KLC does not advocate reducing pension benefits already earned by active employees under the current system. However, it is KLC’s position that the law is unclear about what the inviolable contract means in Kentucky. A few states have won legal challenges when courts ruled that benefit changes were necessary and reasonable in order to achieve an important governmental purpose, such as avoiding financial catastrophe.

To achieve long-term sustainability and predictability, a new retirement model—either a defined contribution, hybrid, or cash balance plan—must be developed for new hires that will share investment risk or at least limit the potential risk to public employers and taxpayers. Mr. Chaney described features of cash balance, parallel hybrid, and stacked hybrid plans—the three options recommended by KLC. He also answered questions from Representative Graham relating to stacked hybrid plans and prefunding of COLAs. Representative Cherry concurred with a request by Representative Graham that KLC provide task force staff with data

comparing the average pension benefit of KTRS and KRS retirees.

#### **3KT (Kentucky School Boards Association, Kentucky Association of School Superintendents, and Kentucky Association of School Administrators)**

Representative Cherry pointed out that the Task Force is not considering KTRS in its review but that 3KT was invited to testify with respect to classified school employees who are members of CERS. The guest speakers were Dr. Leon Mooneyhan, Chief Executive Officer, Ohio Valley Educational Cooperative; and Ms. Shannon Stiglitz, Director of Governmental Relations, Kentucky School Boards Association. Dr. Mooneyhan explained that he facilitates the 3KT group, which works together on many issues. They provided a copy of their prepared statement, which was read by Ms. Stiglitz.

She said that all education groups worked together to develop a solution for funding health insurance for KTRS retirees, which culminated in the passage of House Bill 540 (2010 Regular Session). The primary goal today is to convey the desire to be a partner and resource for the Task Force as it makes critical decisions. The 3KT organization is a strong supporter of the nearly 50,000 classified school employees, who transport children to and from school, provide them with nutritional meals, ensure cleanliness and safety of the facilities, and assist teachers in all phases of instruction. Without them, the teaching and learning experience during the school day could not be successful.

Classified employees are eligible to participate in CERS if they work 80 hours per month. Many work 187 days each year and receive a full year’s credit, as do certified employees. Retirement benefits are a primary tool for recruiting the best classified employees, whose average salary is \$13,998. New fiscal constraints have forced school districts to reduce costs and personnel—both certified and classified. Districts are facing unprecedented financial stresses with the loss of millions in federal and state dollars. This is compounded by rising overhead costs, including retirement contributions. In FY 2003, the employer contribution rate for CERS was 7.34 percent; in FY 2012, it rose to 18.96 percent.

The rising contribution rate is impacted by dramatic increases in health care inflation and the fact that COLAs are not prefunded. 3KT believes it is critical that COLAs be suspended until they can be provided as a prefunded benefit. It is hoped that this change would allow enough time to for the system to achieve 80 percent actuarial funding—or a level secure enough to protect retiree benefits for years to come. Local school boards have always made the required employer contribution set by KRS and will continue to do so. There is no question that the state must find a way to reduce skyrocketing health care costs.

3KT looks forward to learning more



about alternatives such as cash balance, hybrid, and defined contribution plans. To date, the member organizations have not been supportive of 100 percent defined contribution plans but recognize that the Commonwealth must look at various options to ensure the long-term financial stability of CERS. They would also be interested in bonding as a possible solution. 3KT encourages the Task Force to thoroughly analyze the inviolable contract to provide a clear picture of changes that would be permitted for current and future employees and retirees. There were no questions from the Task Force.

#### **Kentucky Professional Firefighters Association (KPFA)**

The guest speakers were Joe Baer, President of KPFA, and Ron Saathoff, Pension Resources Director, International Association of Professional Firefighters. They provided a copy of their slide presentation relating to the KERS and CERS hazardous duty systems.

Mr. Saathoff said that as of June 30, 2011, KERS-hazardous was funded at 70.8 percent and CERS-hazardous at 62.2 percent. The system funding ratio is improving, but there is a significant unfunded liability. As recently as 2002, KERS-hazardous was over-funded at 116 percent and CERS-hazardous at 111.9 percent. The system is recovering from the worst economic downturn since the Great Depression. Investment losses have figured into the current employer contribution rate, exacerbated by the fact that when there were excess earnings, contributions to the system were reduced, thereby lowering the available cushion. In the hazardous system, investment returns are on the upswing and are above 13 percent for the calendar year.

The legislature has modified benefits in recent years to reduce the COLA to 1.5 percent, increase the employee contribution, eliminate lump-sum payment calculations, increase service requirements, and increase the age requirement for the nonreduced benefit. Funding of COLAs is a problem that needs to be addressed.

Mr. Saathoff discussed KPFA's recommendations to conduct an experience valuation—which would provide a clearer picture of the unfunded liability—and to consider pension obligation bonds as a viable option for retiring the debt. The majority of firefighters in Kentucky are not eligible for Social Security benefits. Their pensions will be the principal source of their retirement incomes.

He explained the potential costs associated with closing a defined benefit plan. Relative to recruitment and retention costs, when Alaska implemented a defined contribution plan, after the five-year vesting period, there was a significant turnover problem due to employees moving to jobs that offer a defined benefit retirement plan. Alaska's unfunded liability has grown since adopting a 401(k) system, largely due to market forces and transition costs. Nebraska's 401(k) plan, begun in 1984, has a very generous contribution

level, with employees contributing 6.5 percent and the employer 13 percent. The first firefighter who retired from that plan received a benefit equivalent to less than \$1,000 monthly, after 28 years of employment.

Mr. Saathoff said that 401(k) plans will not provide a meaningful retirement benefit, regardless of contribution level. Investments are more expensive than under a defined benefit plan. Accumulating sufficient money that will be sustained over time is a big problem with 401(k) plans. Kentucky's current defined benefit retirement system is providing significant benefits to the taxpayer with, according to KRS, \$3 billion yearly going into the economy. In KERS, 80 percent of money paid out comes from investment return (68 percent) and employee contributions (12 percent).

Mr. Saathoff said the current plan can be preserved; it is getting healthier, provides a meaningful level of benefits, and is cost effective over time. With everyone involved working together, there are things that can be done to significantly improve the short-term funding situation. Mr. Baer said firefighters realize that current economic times are unprecedented and are willing to discuss any reasonable modifications to the hazardous duty system. There were no questions from Task Force members.

#### **Kentucky Association of Transportation Engineers (KATE)/ Kentucky Association of Transportation Employees (KTEA)**

The guest speakers were Brent Sweger, Transportation Cabinet (DOT) employee and President of KTEA; and Paul Looney, member and former president of KATE. Mr. Sweger said that KTEA—originally named “Ten-40 Club”—was established in 1950; KATE was established in 1972. Neither organization is associated with a union. A copy of their slide presentation was provided to the Task Force.

Mr. Sweger said they are concerned about both current and future DOT employees. Salaries, even in good economic times, have been losing ground. A recent study of compensation, retirement, and benefits of public employees and comparable private employees in Kentucky shows that state employees in most cases earn 14 percent less than their private sector counterparts. DOT salaries are 18-42 percent lower than the average salaries of other state DOTs, based on a national survey of 2011 data. The workforce is declining; there were 9,000 employees in the 1970s and today only 4,700 statewide. In many rural districts it is difficult to attract and retain qualified staff. Much of the unfunded liability resulted because the legislature did not fund the actuarially required contribution (ARC).

Mr. Sweger said that the Transportation organizations want to work with the Task Force to find sustainable solutions that will not hurt current or future employees. He emphasized that the Pew Center recently advised the Task Force

that state policymakers need to ensure that the compensation being offered will help the state recruit and retain a talented public sector workforce.

Mr. Looney said that KATE represents current and retired Transportation Cabinet engineers and that most of them also belong to KTEA. He said that considering overall compensation and benefits, state employees are underpaid when compared to the private sector. The state employee health plan is not a “Cadillac” plan. “Double dipping” does not harm the retirement system. The state benefits from reemploying persons with valuable experience at lower salaries. KATE does not support a pure defined contribution system because it is not necessarily less expensive in the long term. Employees are not professional money managers, and the portable system may negatively impact employee retention. Without a defined benefit retirement system, state government would lose its most valuable recruitment tool. If a defined contribution system is pursued, KATE recommends that there should be a minimum mandatory employee contribution, a minimum employer match, guaranteed five percent minimum return on all contributions, and it should be professionally managed. It would also be imperative for the legislature to renew prior commitments to the existing defined benefit system by reaffirming the guarantee of the inviolable contract.

KATE believes that the 2008 reforms were a step in the right direction and that, given adequate time and market recovery, possibly no other drastic action will be necessary. KATE supports continued oversight of KRS investments and recommends that half of the FY 2012 Commonwealth budget surplus should be invested in COLAs for current workers, with the remaining half going into the pension system. It is also recommended that the legislature approve a bond issue to pay in full the present value of the past underfunded ARC, including investment return. This would immediately reduce the unfunded liability and provide infusion into the system to allow for a longer financial recovery period. According to KRS, approximately 33,000 of the 115,000 total accounts in KERS are inactive. KATE suggests that the legislature consider a buy-out incentive for individuals with inactive accounts. Offering the opportunity to cash out the total employee contribution plus a return of five percent on that money—coupled with the potential for KERS to lose a future health insurance obligation—could be a winning situation for both the employee and the system and have a dramatic impact on the future unfunded liability.

Mr. Looney concluded by commenting on the rewards of public service work, the importance and value of state employees, and the necessity that the Commonwealth fulfill its obligation to those employees. There were no questions from the Task Force.

#### **American Federation of State,**

#### **County and Municipal Employees (AFSCME)**

The guest speakers were David Warrick, Executive Director of AFSCME Council 62, and Vice President of AFSCME International; and Dan Doonan, Labor Economist, AFSCME International Research Department. Mr. Warrick said that Council 62 includes members in Kentucky and Indiana and that AFSCME International has 1.6 million active members and retirees. In Kentucky, AFSCME membership includes classified school employees, and city, county, and state employees.

Mr. Doonan's testimony was accompanied by a slide presentation, a copy of which was provided to the Task Force. He explained charts relating to funding of future accruals in KRS' five plans and liabilities owed by the KERS and CERS systems. Other charts showed that the KERS-nonhazardous and CERS-nonhazardous plans have the largest number of retirees and that the average benefit for all five plans is \$16,826.

Mr. Doonan said a study published by the National Institute on Retirement Security in 2008 found that to provide the same level of benefits costs nearly twice as much in a 401(k) type/defined contribution (DC) plan as in a defined benefit (DB) plan. This is due to the higher returns, lower fees, better asset management, and longevity risk pooling of DB plans. A study by the Center for Retirement Research at Boston College indicates that over the period 1988-2004, DB plans outperformed DC plans by a full percentage point. DB plans continue to invest for the long term because they have a mixed population. In DC plans, eighty percent of 401(k) accruals occur after age 45, when one should invest conservatively; persons in their 20s are usually unable to invest aggressively because they have little money. DB plans are more efficient and provide more value—essentially providing “a better bang for the buck.”

Mr. Doonan said people are beginning to recognize that 401(k) plans are a disaster. A recent study showed that 75 percent of Americans nearing retirement in 2010 had less than \$30,000 in their retirement accounts, when they should have 8-20 times their annual salary for a safe retirement. A 2008 survey by Deloitte Consulting found that 80 percent of employers believe that 401(k)s are effective in recruiting employees, but only 13 percent of plan sponsors think these plans will provide retirement security.

AFSCME recommends that state law should be changed to require the full ARC to be paid each year; if a phase-in is necessary, it should be shorter than 12 years. The ARC should include the intention to pay COLAs. With today's borrowing cost falling from 7.75 percent to about 4-4.5 percent, bonding of past ARC shortfalls of \$4.3 billion would improve funding ratios and save \$141-163 million in interest cost annually. There has never been a 30-year period where returns were below today's



borrowing costs. Bond payments of about \$250-266 million annually for 30 years in flat-dollar amounts would reduce the ARC by approximately 12.3 percent of payroll and result in a net savings over 30 years of about \$6.3 billion.

To pay for the bonds, AFSCME recommends cutting tax expenditures, which should face the same scrutiny as other spending but rarely do. FY 2014 tax expenditures include items such as \$157 million for exclusion of dividends from taxable income and \$782.5 million to exclude capital gains from income from estate property transfers.

For CERS, it is recommended that the funding calculation include a COLA assumption and require a minimum employer contribution instead of a specific contribution as a percentage of pay. This would allow employers to pay down their obligations more quickly if they choose and allow more rapid improvement in the CERS funded ratio. GASB will require allocating a pro-rata share of unfunded liability on participating employers' balance sheets. It is also suggested to review exit and re-entry rules under CERS and, if necessary, to implement a withdrawal liability for any employer trying to exit the plan.

Mr. Doonan discussed proposed solutions that AFSCME believes would fail. For example, moving new hires to a cash balance or 401(k) type plan would not improve plan funding status, would rob the plans of new hire contributions, and worsen cash flows. Because IRS rules may not permit offering a choice of benefit levels, the outcome of reforms enacted in San Jose, California, is unclear. He suggested, too, that PEW testimony failed to give proper weight to legal battles, which can nullify changes and "poison the well."

Mr. Doonan answered questions from Representative Yonts regarding AFSCME's bonding proposal. He explained that the numbers he has charted do not assume new revenue to pay for bonding and are directed only to the ARC shortfall. Representative Yonts said he sees good economy in the suggested bonding and reduction of tax expenditures.

Representative Graham suggested that the Task Force obtain information about the work of the Governor's Blue Ribbon Commission on Tax Reform and consider recommendations that may be forthcoming from the Commission.

#### **Kentucky Public Retirees (KPR)**

The guest speakers were Paul Guffey, President, and Shirley Clark, Vice President and Liaison to Kentucky Retirement Systems. Mr. Guffey read their prepared statement, a copy of which was provided. KPR is a nonprofit organization of KERS, CERS, and SPRS retirees with the goal to protect the benefits of retirees and assure the stability and solvency of KRS.

Mr. Guffey said that public retirees have been concerned for years about the underfunding of KRS and have been

alarmed by the growing funding crisis. Aside from underfunding the recommended ARC, poorer than expected investment earnings have been a significant variable. KPR has supported previous measures by the legislature to address pension reform and understood the need to suspend the COLA, which hopefully can be reinstated in 2014. The General Assembly is urged to honor the inviolable contract without fail and to view it as a moral and legal responsibility of state government. Any attempt to weaken or negate the contract will be fought by retirees statewide.

The negative cash flow must be stopped immediately. The state must find ways to increase employer funding to the systems. When the country's economic situation improves, KRS must attempt to maximize investment earnings. Floating a bond issue might be a consideration. For years, KPR has requested full funding in the budget process. Underfunding the employer contributions is compounded by the fact that there are no potential investment earnings on the unfunded money. There should be no enhancement to retirement benefits in the future unless prefunded through the budget process. Loopholes should be closed that permit employees/retirees to change positions or be rehired in other positions in order to amass excessive pensions. Annual COLAs are important in order to keep pace with the increasing cost of living, especially for those who retired years ago at much lower salaries. The state is urged also to keep its promise to retirees with respect to health insurance. The Task Force and any future legislative efforts should treat retirees the same in all the systems.

KPR is not opposed to creation of a new hybrid or DC plan as long as it does not divert attention and funds from the current DB plan. There is real fear that the creation of a new system for new hires would reduce badly needed funding for the current system. KPR supports the efforts of the Task Force to find solutions; however, retirees did not cause the funding crisis and the solutions should not punish retirees. Mr. Guffey concluded, and there were no questions from Task Force members.

#### **Kentucky Education Association (KEA)**

The guest speakers were Mary Ruble, Assistant Executive Director, and Helen Cottongim, KEA member and career classified school employee participating in CERS. Ms. Ruble explained that thousands of bus drivers, food service workers, administrative assistants, instructional aides and other support professionals rely on KEA to protect their interests on important legislative issues.

Ms. Ruble said she feels compelled to correct statements published recently by the *Kentucky Gazette* and the Bluegrass Institute. An August 8 editorial entitled "Pension Reform: Kick Private Employees Out of the State's Public Pension System" asserted that people who work for KEA--a private employer--participate in the state's

public pension system at the expense of taxpayers. The Bluegrass Institute e-mailed its members questioning whether KEA employees should be allowed to participate in the system. She explained that KEA is a private statewide membership organization with over 70 permanent paid employees. Only the president and vice president—who are on professional leave from their teaching positions while temporarily serving as KEA elected officers with term limits—continue to contribute to KTRS. The 70 permanent employees of KEA do not participate—and never have participated—in any of the plans administered by KRS or KTRS during employment with KEA.

Ms. Ruble said the CERS participants that KEA represents are education support professionals (ESPs) employed in Kentucky schools. They and their employers regularly contribute to CERS in the amount required by law. In that system neither the employees nor employer has the option to forego or decrease contributions in favor of other preferred expenditures. As a result, in many cases ESP wages remain artificially low throughout their entire career because the employer contributions are so high. ESP members of KEA respect the work of the Task Force but are not pension experts and cannot offer a specific solution to the unfunded liability problem. Many suggestions offered at today's meeting are possible solutions. KEA encourages the Task Force to consider all reasonable measured options that fairly, though not necessarily equally, distribute the burden of solution among all the stakeholders.

Ms. Cottongim said she is the district safety coordinator for transportation in her school district. During her 40 years as an ESP, she has been honored to serve as a leader for classified school employees in Kentucky and has worked hard to ensure that their voices are heard. ESPs are the backbone of Kentucky's public schools and are critical to every child's success. They are among the lowest paid state employees and are concerned how they will be affected by potential changes to the retirement system. Most will earn very small retirement and Social Security benefits. Undermining the financial sacrifices made by this group of working class Kentuckians would be inappropriate and degrading.

Ms. Cottongim said she understands the difficult position faced by the Task Force. Although she cannot offer a solution to the dilemma, she asks that any solutions created will not undermine the commitment and already precarious financial status of these dedicated public servants.

Ms. Ruble closed with a statement that KEA agrees that the public pension system should be for public employees. Private employers participating in the system are being subsidized by the taxpayers, and KEA believes that is not appropriate. There were no questions from Task Force members.

#### **Northern Kentucky Tea Party**

The guest speaker was Terry Donoghue of Hebron, KY, a retired citizen and registered Republican who is active in the Tea Party. He provided a copy of his prepared statement.

Mr. Donoghue was critical of 2005 retirement legislation, House Bill 299, and how its passage has enhanced legislative pensions. His comments included references to several current and former legislators. He said House Bill 299 should be repealed, and done so retroactively—that the padding of legislative pensions is a prime example of why the Tea Party supports term limits. He also spoke about a national investigative report on state legislative pensions by Thomas Frank, published a few months earlier in *USA Today*, and a recent appearance by Senator Thayer on the "Pure Politics with Ryan Alessi" television show that included discussion of pension reform.

Mr. Donoghue suggested adoption of a 401(k) or cash balance plan; hiring of an independent panel to implement reform; eliminating free health insurance coverage after 20 years of service for legislators and their families; and ending free family health insurance coverage for hazardous duty retirees, although he supports early retirement and health insurance benefits for those engaged in hazardous duty. He said the pension crisis is not a Democrat or Republican issue but one that faces all Kentuckians. He encouraged the Task Force to implement bold, aggressive reforms that will lay a foundation upon which future legislatures can build a bright fiscal future.

Senator Thayer clarified that he has co-sponsored legislation to repeal House Bill 299, will continue to be committed to its repeal, and that the state Senate has twice passed legislation to do so. He said he made it clear on "Pure Politics" that he would not support a tax increase to support the pension problem. He noted, too, that he was an invited speaker at today's Tea Party rally. Representative Cherry said he did not vote for House Bill 299 and has sponsored legislation that would eliminate the reciprocity provisions enacted in that bill. Task Force members had no questions for Mr. Donoghue.

#### **Bluegrass Institute**

The guest speakers were Jim Waters, President of the Institute, and Lowell Reese, editor and publisher of *Kentucky Roll Call*. Copies of Mr. Waters' prepared statement were provided, along with Mr. Reese's special report, "The Unsustainable: Kentucky's Public Employee Pensions Systems/A Primer and Analysis of Kentucky's State-Administered Plans."

Mr. Waters said that the state's unfunded public pension liability went from less than \$960 million in 2000 to \$33.5 billion 2011. There is no doubt that the worst economic downturn since the Great Depression has had a substantial negative impact on KRS' funding problem. Lower ARC payments have also been a factor. The KERS plan is one of 126 public



retirement plans across the nation that has been followed and analyzed by Jeanne Pierre Aubrey at Boston College's Center for Retirement Research. According to the Boston study, KERS has gone from the top of the heap to the bottom. Fully funded in 2000, KERS had an unfunded liability of 30.1 percent in June 2011.

Mr. Waters expressed concern that legislators are not leading by example as they face tough choices in an effort to protect the retirement benefits of state workers. He said the retirement fund of legislators is 71.5 percent funded, and in the midst of the 2000s decade, the legislature enacted a reciprocity provision that allowed for enrichment of legislators' pensions. Pension reforms enacted in 2008 were mainly cosmetic, and the positive effect of those changes will not be realized for 20 years or more. The Bluegrass Institute estimates that a DC plan could save the state an estimated \$635,000 on just one mid-management career employee. The up-front transition cost could be about \$5.6 billion during the first 15 years, with savings beginning to be realized in the sixteenth year. Between 2028 and 2035, savings could exceed \$11 billion in the KERS plan alone.

The Bluegrass Institute offers several recommendations: end the practice of double and triple dipping for all government workers, not just new hires; move to a 401(k) type system where workers will contribute more to their retirement; reform the KRS board to include more members with financial expertise and remove the boards' dominance by beneficiaries; end the reciprocity provision for lawmakers; and make public pension information transparent.

When the issue was raised by Representative Rand and Representative Yonts, discussion followed regarding bonding, reduction of tax expenditures, and general tax reform as possible solutions for managing the transition costs of moving to a defined contribution plan.

#### **Pew Center on the States/Laura and John Arnold Foundation**

Present were David Draine, Senior Researcher, Pew Center on the States, and Josh McGee, Vice President for Public Accountability Initiatives, Laura and John Arnold Foundation. Mr. Draine said it was heartening to hear the variety of ideas offered in today's testimony. He commended, in particular, the presentations from the Kentucky Chamber of Commerce and AFSCME. He offered the Task Force some guiding principles. The state should commit to comprehensive reform that will not require policymakers to revisit the issue in 5-15 years. Changes should honor benefits that have already been accrued. Comprehensive reform must accomplish three goals: responsibly pay down the unfunded liability over a reasonable time frame without unduly impacting either government services or the economic viability of the state; create a retirement system that is affordable, sustainable, and secure, and does not allow missed

payments or unforeseen cost increases to create future funding crises; and the new plan must not jeopardize the ability of the state to recruit and retain a talented public sector workforce.

Mr. Draine said it is important to realize that if a new retirement plan is created, the state will still need a credible plan to pay off the existing unfunded liability. The potential for cash flow problems is only one of the issues the state will need to solve as part of its plan to close the funding gap. Cash flow issues are not as intense under hybrid models because assets remain pooled together. It is important to recognize that massive costs will not accompany closing the existing plan if a new plan is created. While old accounting rules arguably would require the state to pay down its funding gap over a shorter time frame under that scenario, new GASB rules do not require this. Opening a new plan may or may not be the best move, but the decision should be decided on its own merit.

Bonding adds risk to the state, and the cost of borrowing may be greater than future returns. However, pension debt is like any other debt—when it makes sense to refinance, bonding is a tool that the Task Force should consider. If the bonding approach is chosen, Pew Center recommends that it include a requirement to make future contributions. Connecticut issued bonds for its teachers' plan, with the condition that failure to make contributions in the future at an actuarially appropriate rate would result in technical default.

The problems facing the state took years to emerge and no solution will solve them immediately. Policymakers will need a credible plan to close the funding gap, fairly share the cost, and reform the system to ensure that it is affordable, sustainable, and secure. Time is of the essence. Every year that the state's pension challenges remain unresolved, the costs and the pain of dealing with them will increase. Reform is not about blame, politics, ideology, or incremental steps that do not fix the problem. It is about deliberately and thoughtfully thinking about the problems facing Kentucky and identifying a solution that will secure benefits for public workers, protect taxpayers, and meet the policy needs of the state.

Senator Thayer asked the speakers to address concerns that moving to a DC or hybrid plan would undermine the financial stability of the current DB system because it would not receive contributions from new employees. Mr. Draine said that under hybrid or cash balance plans, future contributions remain pooled and would not likely result in a cash flow problem, regardless of whether an aggressive funding strategy is followed. With a DC plan there will be separate accounts and a cash flow problem could result because employee contributions will no longer go into the DB plans, some of which are poorly funded. It is imperative, regardless of the approach, that money goes into the plans to bolster them and to ensure that

benefits are secure and that the funding gaps do not become unmanageable. This could include issuing a bond.

Mr. McGee said that if new employee contributions are necessary to keep the fund solvent, the fund has a cash flow problem regardless of new employee contributions. The turnover rate for new employees is relatively low. If a plan is developed to responsibly pay down the unfunded liability over a closed interval, new employees would enter the new system at a relatively slow rate.

#### **Adjournment**

There were no further questions, and the meeting was adjourned at 4:58 p.m.

(NOTE: A printed statement entitled "What Needs to be Done NOW!" from Louisville Metro Councilman Jerry T. Miller was distributed to Task Force members, but it was not discussed, and Councilman Miller did not speak at the meeting.)

## **TASK FORCE ON STUDENT ACCESS TO TECHNOLOGY**

### **Minutes of the 1st Meeting of the 2012 Interim**

July 24, 2012

#### **Call to Order and Roll Call**

The first meeting of the Task Force on Student Access to Technology was held on Tuesday, July 24, 2012, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Carl Rollins II, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Katie Stine, Co-Chair; Representative Carl Rollins II, Co-Chair; Senators Jared Carpenter, David Givens, and Dennis Parrett; Representatives John "Bam" Carney, and Ruth Ann Palumbo.

Guests: David Couch, Associate Commissioner, Office of Education Technology, Kentucky Department of Education; Brian Kiser, Executive Director, Office of Broadband Outreach and Development.

LRC Staff: Jo Carole Ellis, Sarah Kidder, Perry Papka, and Ashlee McDonald.

#### **Mobile Computing Devices in Kentucky Schools**

Mr. David Couch, Associate Commissioner, Office of Technology, Kentucky Department of Education (KDE), said that KDE is the leader in the United States for Cloud-based computing. Cloud-based computing means that computer servers, which used to reside in school buildings or district offices, have moved to outside locations. The KDE email system server is located in San Antonio, Texas, and it has a backup in Chicago, Illinois. The KDE financial management system is also being transitioned to reside from Kentucky school district offices to Portland, Maine, with a backup in Dallas, Texas. Cloud-based systems allow the use of mobile devices that can be used anytime and anywhere, which is called dense wireless.

Mr. Couch said that equity and ease of access are key points to getting students involved in personal digital learning. KDE is seeing an increase in teachers integrating the technology learning experience as a guide. It is also seeing mobile devices improve the parent-to-student engagement.

Mr. Couch said that when schools are considering adding technology, they need to be aware of the "hype cycle" that technology follows. First, there is a driving demand for the newest technology. Following that, there is the peak of inflated expectations. The key point in the cycle is called the trough of disillusionment, where many technology initiatives die. For example, if the technology is not mature and stays in the trough for two years, it will typically go away. Schools should make sure newer technology has the ability to sustain to a version 2.0 or 3.0.

Typically, school districts or companies should buy technology when it is coming off the slope of enlightenment and entering the plateau of productivity on the hype cycle. However, if they wait too long to buy, the technology will be outdated. Superintendents, education technology leaders, and other finance officers have been very successful when using the "hype-cycle" tool.

Mr. Couch said there are four questions that should be considered before implementing a technology program: 1) can you; 2) should you; 3) how much; and 4) who pays. Cost needs to include the total cost of ownership for sustaining the program for at least five years.

Mr. Couch discussed the nine elements of digital citizenship and the importance of students developing and retaining good people skills while using technology. School districts that have implemented a 1:1 computer solution for their students have required that their students receive a digital license. Most of these are tied back to the nine elements of digital citizenship.

For example, in Woodford County every student must complete training to get a digital license. If the student abuses the privilege of the license, he or she lose part of or the entire digital license, and the student must show the capability of using it responsibly before it is reinstated.

Mr. Couch said a study was recently completed to show what will be needed to stay competitive in education in the next decade. One of the key points was digital learning. KDE has empirical data on state, national, and global levels that show digital learning is in the immediate future. It allows students to personalize their learning, which provides a more engaging experience.

Mr. Couch said he asks the school districts to keep in mind several factors when considering a 1:1 program: 1) whether it makes educational sense; 2) whether it can be fiscally supported; 3) whether it makes technical sense to do it; and 4) whether there is support staff



to keep the technology operational and reliable for the teacher.

Technology can be an educational multiplier if the school districts already have a solid educational practice. If the districts do not have a solid practice in place, the technology will actually send them in the wrong direction faster.

Equity and ease of access will increase the odds of students using the technology in the classroom instruction. Schools will not need to have special computer labs because they will have mobile devices to use anytime and anywhere. There is a significant and overwhelming advantage to having technology educational tools at home and at school.

Mr. Couch stated that the new technology is very teacher friendly, making it easy to utilize in the classroom. The technology must be reliable or the teachers will not integrate it into lesson plans. There must also be a low initial and ongoing cost. If the districts can not financially sustain it, they do not need to start it.

Mr. Couch shared statistics from a survey that was conducted across the country of students, teachers, parents, and administrators about the top uses of mobile devices in their personal lives. The survey showed that 74 percent of students check their grades using their mobile device. Other high percentages of use were for taking notes, internet research, and collaboration with peers.

Kentucky became the first to deploy a mobile application in October 2011 called Infinite Campus. The Infinite Campus application allows student, teachers, and parents to share immediate updates on tests, assignments, schedules and grades. It creates a more engaging experience for the parents. This became the number one educational application in the United States when it was deployed, and it has been a major success.

Mr. Couch said that sixth graders in particular are much more tech savvy and more likely to use emerging technology tools than their older siblings. Twenty-five percent use e-textbooks, 50 percent have a cell phone. A third of the cell phones are smart phones with data plans. Fifty percent of the sixth grade students have Facebook accounts, which is a 125 percent increase in the last two years.

Mr. Couch said that in 2008, 21 percent of parents believed that on-line textbooks were a good idea. The numbers are now reaching 70 percent. On-line textbooks can provide significant savings. For example, Hancock County previously paid \$144 for a single new math book per student. Now, it can get an electronic textbook for \$144 for all students that year.

Mr. Couch also discussed was blended learning. Thirty percent of students have experience with blended learning, which is up from 10 percent two years ago. A blended learning environment yields high results including an 81 percent increase in test scores, a 63 percent reduction

in disciplinary action, and a 59 percent dropout rate reduction.

Students have become more engaged with online collaboration. By using mobile devices, collaboration is no longer limited to face-to-face interaction. Students are able to use Skype, Facetime, and other social networking applications to interact with their peers while working together on school projects. Sixty-nine percent of schools reported a drop in disciplinary action, and 62 percent reported a reduction in dropouts due to students' online collaboration.

Mr. Couch explained that implementing a 1:1 program can provide additional savings by eliminating other expenses. For example, in Hancock and Woodford counties, the use of iPads eliminates the need for other devices that districts or parents had to acquire. There is no longer the need to pay \$120 for a graphing calculator when there is a \$0.99 iPad application. Having these devices also cuts down the schools' printing and copy costs.

Mr. Couch said that using the technology as an integral part of instruction has also benefited the various subject areas of school and in preparing for college. College enrollment, attendance, and course completion have seen percentage increases as the student-computer ratio is moving towards 1:1.

Regarding funding, Mr. Couch said the majority of the funding sources for the technology initiatives come from school operating budget or capital budgets. Another source is state or federal grants.

The major 1:1 mobile initiatives in Kentucky are based across 11 school districts, mainly in the high school level with some in the middle school level. Examples include, Hancock County, which purchased the technology at 100 percent, and Woodford County, which uses students' textbook fees to help pay for the electronic devices.

Mr. Couch explained there are several school districts with "bring your own device" (BYOD) programs. BYOD programs are possible because parents are willing to purchase a device for their children to take to school and use at home.

Mr. Couch stated that with 40 percent of homes having DSL internet access and 32.6 percent having cable modem, the ease of home internet is increasing. Ninety-three percent of teachers have internet access at home. Seventy-nine percent of students in grades K-12 have a computer at home. Sixty-eight percent of those students' computers are less than five years old.

The smart phone devices have seen an increase in use and purchase as well. In 2010, roughly 22,000 students in K-12 had a smart phone device. That number jumped to 32,000 in 2011.

The percentage of district-owned laptops, tablets, and mobile devices is primarily consumed by laptops at 68 percent. Seventy-eight percent of teachers

use a laptop as a portable instructional device.

Mr. Couch said that many teachers are taking advantage of the free content on Web 2.0 as instructional material. Sixty-eight percent of districts encourage and support Web 2.0.

Mr. Couch shared a specific example from Woodford County. He said Woodford County has a 24/7 learning opportunity, meaning there is always internet access for immediate research opportunities. The district has more student-centered learning experiences with a more project-based learning approach.

Woodford County participated in teacher education, which included advance training for teachers. Teachers were issued iPads five months in advance. The district wanted to ensure that the teachers could operate the online classrooms and utilize the technology. It also developed an iPad Instructional Team.

Mr. Couch stated that, with a move to a 1:1 program, it is very important to have appropriate usage policies in place. Woodford County employs student handbooks, student/parent agreements, and an iPad Protection plan. This plan requires that the Woodford County students pay a \$35 fee in the event that the device is lost or stolen. The district has adopted a discipline philosophy geared for a digital learning environment and implemented a student preparation program so students can earn their digital driver's licenses.

Mr. Couch said that in Woodford County the iPad amplified the teachers' weaknesses and strengths. The teachers who integrated the iPad into their regular classroom instruction experienced more success with students' participation than teachers who did not.

Responding to a question from Representative Rollins regarding internet research and its value, Mr. Couch stated that is covered in the digital citizenship training. It helps students differentiate between factual information and fiction.

Responding to Representative Rollins regarding parents' using the internet to check children's grades, assignments, and attendance, Mr. Couch said that when parental usage was only one to two percent when first checked, but it has now jumped to 20-30 percent.

Responding to a question from Representative Rollins, Mr. Couch explained that Woodford County's 1:1 program does not include summer use. Representative Rollins suggested that using the mobile device over the summer may help with the loss of learning that occurs on summer breaks with students.

Responding to a question from Senator Stine, Mr. Couch explained that the location of the remote Cloud-based server's backup is decided by the company providing the service. He said that KDE officials visited those sites to make sure they are capable of housing the servers.

Senator Stine inquired about the technology use training that teachers are receiving. Mr. Couch responded that it

varies by district, and there is no statewide approach to teacher training.

Representative Rollins inquired about the technology training that teachers receive while in college. Mr. Couch said technology training is being included in the colleges of education so teachers will be ready when they begin their teaching careers.

Responding to Senator Stine in regards to discounts or incentives for teachers to get the latest technology, Mr. Couch said they receive discounts available through the state.

Senator Stine also inquired about virtual classrooms in the event of snow days or a day where a student is unable to make it to class. Mr. Couch said that is an example of blended learning being used by some districts.

Responding to Senator Stine's question regarding updating the technology once it is purchased, Mr. Couch said there are two options for updating software. Districts can either lease software, which will be automatically updated, or they can purchase software and replace it when newer software is available.

Senator Stine asked about efforts to further fund private/public partnerships to facilitate the use of technology, specifically by KDE. Mr. Couch said KDE is working with the Cloud computing partners and many others.

Senator Stine asked who is responsible for ramifications of students' incorrect use of the technology. Mr. Couch said schools make it very clear that at any given time the device may be inspected before students are given the device.

Responding to a question from Senator Stine regarding the education of special needs children, Mr. Couch stated many special needs students are power users of technology and depend greatly on it as a learning tool.

Representative Rollins added to that by stating that there are several "apps" that are specifically geared towards special needs children.

Responding to Senator Parrett regarding the relationship between technology use and the reduction in disciplinary action, Mr. Couch said the students find using the technology a much more engaging learning experience, which in turn has an effect on disciplinary action and lower dropout rates.

Responding to Representative Carney, Mr. Couch explained that there is a great interest in Infinite Campus and allowing parents and students to check grades, assignments, and homework online. Representative Carney agreed students can benefit greatly from using technology and dropout rates will improve. He also said using this technology helps eliminate socio-economic inequity among students because they are able to work together in and out of the classroom.

Responding to Representative Carney's comments, Mr. Couch said that western Kentucky districts have been state leaders in starting 1:1 programs at



their schools. Many Kentucky districts have issues with initial startup costs and sustainment funds. However, by using electronic textbooks, there are incredible long-term savings.

Senator Givens asked Mr. Couch to explain the concept of a “flipped classroom.” Mr. Couch said that in a standard classroom, students learn the basic concepts at school and then work at home alone on homework or a project. In a “flipped classroom” environment, students use the technology to work together in a classroom and at home.

Senator Givens stated that more should be done to amplify the message that Kentucky is a pioneer in Cloud computing. Mr. Couch said that utilizing Cloud-based computing maximizes the Kentucky taxpayer’s dollar and makes the system easier to support.

Responding to a question from Senator Givens about digital curriculum, Mr. Couch stated that teachers can impact the content locally. The teacher-created content through iTunes University can be shared across the state. Mr. Couch thinks that Kentucky is well positioned for the next 10 years if the state moves towards in-class mobile devices.

Senator Givens asked Mr. Couch how KDE views its role regarding mobile devices in classrooms. Mr. Couch explained that KDE not only sees the districts as customers, but KDE offers leadership for the districts across Kentucky and can share across the state what is new and improved with the schools through weekly webcasts.

Senator Carpenter commented that many students’ grades and classroom interaction are improving because learning with mobile devices seems more “game like” and engaging. The students are able to learn at their own level and move at their own pace. Mr. Couch stated that educators see these tools as differential learning devices. From a student’s perspective, school is more enjoyable, and the students who once struggled are now flourishing.

Senator Carpenter asked how districts that cannot afford textbooks can provide mobile devices. Mr. Couch stated that districts are looking at their budgets for ways to maximize their money. School districts are making strategic decisions and looking for areas they can cut so they can provide the mobile devices.

Senator Stine asked if KDE was pursuing any grants from federal or private sources for the schools or does the district have to find those on their own. Mr. Couch explained that KDE tries to maximize every discount it can. Kentucky has always been a top contender among states in regards to maximizing every dollar. However, districts can pursue individual grants if they choose.

**Broadband Availability and Access in Kentucky**

Brian Kiser, Executive Director, Office of Broadband Outreach and Development, discussed broadband specifics. Broadband is defined by the

National Telephone and Information Administration (NTIA) as 768 kilobytes of speed or greater. The types of services that are classified as broadband include:

Digital Subscriber (DSL), which covers most of the state but is limited in speed to six megabytes (mbs);

Cable modem, which provides up to 25 mbs in speed;

Fiber, which is expensive but has great speed potential;

Wireless, which can be expensive and not as reliable due to location, amount of online traffic and weather conditions; and

Satellite, which is more expensive than other sources, has size limitations, and is unreliable in rugged terrain and weather conditions.

Mr. Kiser said Kentucky has a population of 4,273,951 with a total area of 40,411 square miles. There are 1,686,618 households in our state. Mr. Kiser stated that 1.4 million have access to broadband but do not use it. The reasons given for not adopting broadband are that it does not provide value and it is too expensive. The largest barrier to broadband adoption is not lack of access to the technology but rather a perceived lack of need. Roughly 2.4 million Kentuckians subscribe to an internet service provider, which is about 58 percent of the state, even though there is 91 percent availability. Kentucky residents choose not to use broadband because they feel it is unaffordable and inadequate.

Mr. Kiser said Kentucky ranks 47<sup>th</sup> nationally among states for internet and Utah ranks first with 80 percent. Mr. Kiser said that Kentucky needs affordable and reliable broadband and increased broadband adoption.

Investments in broadband will allow Kentucky students to compete globally, improve distance learning opportunities and offer more learning opportunities for the low income and students with disabilities. It will also encourage businesses to relocate to Kentucky, ultimately providing jobs for future graduates.

Responding to Representative Rollins, Mr. Kiser said that a telephone landline is required to have DSL. Representative Rollins voiced his concerns about the rural areas and students who do not have a home landline. Mr. Kiser explained that his office works with about 80 percent of internet providers to ensure access. He said 100 percent of the school districts have internet access.

Responding to Senator Stine, Mr. Kiser said that the department pursues grants and funding to make broadband access more affordable for the residents of Kentucky. Mr. Kiser stated his office is looking at changes in current law that the General Assembly might want to consider to help address the issue.

Senator Givens wanted to clarify broadband coverage versus adoption. Mr. Kiser explained that six out of 10 people are adopting broadband, and there needs to be more blanket coverage across

Kentucky in order for residents to adopt it. Mr. Kiser stated that affordability is the largest hurdle residents face right now.

Responding to Representative Palumbo, Mr. Kiser said that sometimes when a customer chooses dial-up, that is simply because that is all that is available or all that the customer can afford.

Responding to Senator Carpenter, Mr. Kiser said that he met recently with one of the larger telecommunications providers regarding changes needed to telecommunication laws. He said that his office will be providing more information at a later date.

Responding to Representative Carney, Mr. Kiser stated that AT&T, for example, has invested \$600 million in broadband over the last two to three years. T-Mobile and Verizon are also large investors in wireless and broadband.

**Adjournment**

The next meeting will be Monday, August 27<sup>th</sup> at 1:00 p.m.

With no further business to come before the committee, the meeting adjourned at 12:15 p.m.

**TASK FORCE ON THE UNIFIED JUVENILE CODE**  
Minutes of the 2nd Meeting  
of the 2012 Interim  
August 23, 2012

**Call to Order and Roll Call**

The 2nd meeting of the Task Force on the Unified Juvenile Code was held on Thursday, August 23, 2012, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Katie Stine, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Katie Stine, Co-Chair; Representative John Tilley, Co-Chair; Harry L. Berry, Hasan Davis, Teresa James, Lisa P. Jones, Mary C. Noble, Pamela Priddy, Peter Schuler, and Steve Trimble.

LRC Staff: Joanna Decker, Ray Debolt, Jonathan Scott, Mike Clark, Norman Lawson, and Cindy Smith.

Senator Stine reviewed the focus of the Task Force and announced that the Task Force will be divided into three working groups with separate tasks and goals. Staff will be available to help with these work groups. The work groups should meet in September and October and report back to the full Task Force in November with their recommendations.

**Approval of Minutes**

There was a motion by Judge Berry, seconded by Representative Tilley, and approved by voice vote to adopt the minutes of the July 31, 2012 meeting.

**Day Treatment, a community resource**

Keith D. Wells, Department of Juvenile Justice (DJJ), and the Superintendent of the Owensboro Day Treatment Program, gave an overview of the Owensboro Day Treatment Program. He said that day treatment is a highly structured program for at-risk youth. Instead of being removed from their families, these youth spent 7

hours each weekday in day treatment, then returned home in the afternoon. Since the youth return home every afternoon, day treatments are more cost-effective than residential placements. The Owensboro program has capacity for 36 youth, and is 1 of 6 DJJ state-operated day treatments. Those eligible to attend the program are males or females 12-17 years old, in grades 7<sup>th</sup>-12<sup>th</sup>, who are public or status offenders. Referrals for the program come from a variety of sources including referrals from court designated workers (CDW), the Department of Juvenile Justice (DJJ), the Department of Community Based Services (DCBS), District Court Judges, other DJJ facilities, private child care, and school systems through the CDW office. Day treatment services include education, recreation, individual, group, and family counseling, workplace readiness, community volunteer work, and substance abuse counseling and education. Each youth in day treatment works with the counselor to design an individual treatment plan outlining the goals and expectation of the youth while in the program. Since many of the youth do not thrive in the public school setting, the program reinforces the educational aspect with counseling. Day treatment also collaborates with other agencies to allow for smooth transition back in the public school setting.

Mr. Wells brought Brennan Calhoun with him. Brennan successfully completed the Owensboro Day Treatment Program. He stated that he was in the program for a year and a half. While he was in the program, he had counseling with peers and family and was given the tools needed for when he returned home. Staff was always there for him and never gave up on him. He liked the consistency of day treatment and said it was a good support system that he needed. Without day treatment, he would have been placed away from his family.

In response to a question by Senator Stine, Mr. Wells said he has been with the Owensboro Day Treatment Program for 4 years, but it was started in 1978 and moved to its current location in 1987. Mr. Wells did not have the daily cost report with him, but said he would get that information to the committee.

In response to questions by Ms. Priddy, Mr. Wells said that the youth referred to the program are status or public defenders, and that the therapy they receive is all-inclusive. The program does not bill out for therapy. To transition out, the youth go through 4 phases in a 6 month period, which includes a 3 week transition back to the public school setting. All day treatments programs in Kentucky operate similarly.

In response to a question by Superintendent Trimble, Mr. Wells said there are 6 DJJ state-run day treatment programs in Kentucky. Commissioner Davis added that there are twenty contracted day treatment facilities.

Superintendent Trimble said that it



would be good to know the data of the number of youth that start day treatment compared to the number that successfully finish the programs.

In response to a question by Mr. Schuler, Mr. Wells said the Owensboro program uses Daviess County teachers. The program collaborates with the Director of Pupil Personnel to decide what placement is best for the youth after they finish treatment.

In response to a question by Mr. Schuler, Mr. Wells said the County Attorney does not have to sign off and that it is all taken care of by the CDW. The reason the age range is 12-17 is because that is the age that DJJ deemed is appropriate for day treatment. Those ages work well in the same classroom setting.

In response to a question by Justice Noble, Mr. Wells said that the youth are identified by a variety of sources, and some of the children who are DCBS children receive Cabinet services as well. Treatment is provided by all private treatment providers.

In response to a question by Justice Noble, Commissioner James said that DCBS gets involved if the children are committed, but many in-home cases go to day treatment, and DCBS secures services for out-of-home care.

#### **Youth Development and Treatment**

Dr. Bill Heffron, Associate Professor of Psychiatry at the University of Kentucky, and Chief of Mental Health Services/ Acting Medical Director at the Department of Juvenile Justice gave an overview of the brain changes in children as they develop into adolescence and then adulthood. Different parts of the brain go through different processes at different rates, and the most concern is on the frontal lobes that finish by age 25. Adolescents see the benefits of an action initially instead of the harm of the action. They make decisions on the basis of emotion of the moment and are more influenced by their peers. Treatment approaches include a risk/needs assessment, enhancing strengths, work on minimizing liabilities, and involving the family. What works for families includes multisystemic therapy, which is sometimes difficult; family functional therapy, which does not have as much turmoil; and parent training. Youth need to be taught social competency skills and thinking skills, and need risk-focused treatments. Things that do not work include boot camps and wilderness programs, which have seen worse results; mixing low risk and high risk youth; and excessive supervision of low risk youth.

In response to a question by Representative Tilley, Dr. Heffron said the recidivism rates are identified differently by different states. Commissioner Davis said that Kentucky DJJ looks at the rate of children that commit other crimes after treatment.

Representative Tilley noted that the most effective tool would be for the youth to complete school. Dr. Heffron agreed

and noted that the youth need to be doing something valuable for themselves.

In response to a question by Mr. Schuler, Dr. Heffron said that studies have shown that juveniles who go to adult jails do worse when they are released, and decisions on where to send juveniles should be made very carefully.

#### **Adolescent Kentucky Treatment Outcome Study**

Jenifer Cole, Ph.D., MSW, Assistant Professor at the University of Kentucky Center on Drug & Alcohol Research in the Department of Behavioral Science presented an overview of the Adolescent Kentucky Treatment Outcome Study. She said that approximately 11.7 percent of adolescents in Kentucky used an illicit drug, and 18.1 percent used alcohol in the past month. There was an estimate of 85,000 individuals (17 and under) who needed substance abuse treatment in 2009, while there was an unduplicated count of only 786 who received alcohol and other drug use state-funded services in fiscal year 2010. There is a heightened vulnerability to substance use during adolescence, which has long-term effects on neurological and psychological development. Mental health and substance abuse treatment were viewed by juvenile justice professional as two of the most effective policies for six outcome areas. The purpose of the Adolescent Kentucky Treatment Outcomes Study was to measure behavioral change for youth who participate in Kentucky's publicly funded substance abuse treatment programs. Information was collected for youth ages 12-17 who receive state-funded treatment and have a primary or secondary diagnosis of substance use disorder. The majority of the study clients were white males ages 14-16, and most were living with a parent or guardian. The majority were referred to treatment by the Justice system. Most were from a public or private school with a 2.0 GPA. The majority reported mental health issues within the past year. Most of the youth reported good satisfaction with their treatment and a significant decrease in substance abuse, although incarceration rates for boys and girls did not really change, and arrest rates for boys did not change much either. There was a rise in GPAs of both male and female youth, and the number of self-reported behavioral health problems decreased. Substance abuse treatment for adolescents is expensive, but she noted that providing treatment to adolescents reduces costs to society, even when not considering longer-term costs of substance use such as decreases in human capital.

In response to a question by Mr. Schuler, Dr. Cole said that different treatments are used for kids and adults, and that adolescents do not usually show as significant improvement as adults, but that does not mean the treatment is not working. It is a chronic disease and treatment takes time.

In response to a question by Ms. Priddy, Dr. Cole said that she has not been

involved with any studies on barriers to treatment. The Department for Behavioral Health is involved in trying to figure it out and knows it is a huge issue.

In response to a question by Ms. Priddy, Dr. Cole agreed that most youth in the court system are on the fast track for treatment. Representative Tilley noted that funding is the issue.

#### **“Under 10” Development and Best Practices**

Patrick Yewell, Executive Officer for Family and Juvenile Services at the Administrative Office of the Courts, and Ed Monahan of the Department for Public Advocacy presented information on the “Under 10” development and best practices. Mr. Yewell said over the last 6 years approximately 2704 children ages 10 and under in Kentucky have been charged with a public or status offense. There was a spike in complaints filed in 2010, of 523. The number one charge is a beyond control status offense. Mr. Yewell approached the State Interagency Council (SIAC) a year ago and requested that it establish a workgroup to further examine the issue of charges filed against young children. Preliminary recommendations include the use of multidisciplinary teams to address the underlying issues that are causing referral to the criminal justice system subsequently preventing entry into the courts. The Council's major concerns were that filing a complaint on children in this age group is evidence of a lack of more appropriate resources; children in this age range are unable to fully comprehend the consequences of pleading guilty; and children at this age with high risk behaviors are best served by social services agencies, and not the criminal justice system. He said that 16 states have a minimum age for juvenile court jurisdiction in delinquency matters, while Kentucky does not.

Mr. Monahan read the position statement of the State Interagency Council in its entirety. He reiterated that it is SIAC's belief that children age 10 and younger should not be charged or prosecuted as public or status offenders. Children at this age are best served by community resources that comprehensively address the underlying reasons for their behavior and prevent future entry into the criminal justice system.

In response to a question by Justice Noble, Mr. Monahan said there is more focus on the reasons for behavior. Detention is used at a lower rate, which provides better outcomes.

In response to a question by Justice Noble, Mr. Monahan said there is a proposal to allow for discretion in the system. It is better to put efforts on underlying reasons that caused behaviors. Chances are higher when they come out, over just using detention. There is a moral side to the law as to what is fair, and the public wants tax dollars used wisely.

In response to a question by Mr. Schuler, Commissioner James said that \$500,000 was spent last year to evaluate

families and children for competency. One evaluation can cost between \$2,500 and \$5,000. The evaluations are costly but needed.

In response to a question by Judge Jones, Mr. Monahan said that the role of the public defender should be addressed through social services instead of criminal services. There should be a counseling function where the client determines the outcome.

In response to a question by Judge Jones, Commissioner James said she believes her department should serve those children, but there are budget struggles and heavy workloads to overcome before additional youth can be served.

#### **Juvenile Code Reforms**

Public Advocate Damon Preston discussed juvenile code reforms. Accompanying Mr. Preston were Susie Bookser, public defender from Northern Kentucky, and Kelly Ridings, public defender from London, Kentucky, who gave insight into specific court cases they have worked on. Mr. Preston reported that in fiscal year 2012 public defenders were assigned more than 22,000 juvenile cases. He presented the following recommendations: stop designating children as status offenders. They should instead be designated as a child in need of services; no prosecution of a child under age 10; detention of a child is the last resort; increase opportunities for diversion; define the role of school resource officers; enhance protections for children and parents of children who are questioned; and expand judicial discretion to allow case-specific and child-specific outcomes.

#### **Adjournment**

There being no further business, the meeting was adjourned at 3:32 p.m.

## **TASK FORCE ON MIDDLE SCHOOL INTERSCHOLASTIC ATHLETICS**

Minutes of the 2nd Meeting of the 2012 Interim August 20, 2012

#### **Call to Order and Roll Call**

The 2nd meeting of the Task Force on Middle School Interscholastic Athletics was held on Monday, August 20, 2012, at 1:00 PM, in Room 129 of the Capitol Annex. Senator Mike Wilson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Carl Rollins II, Co-Chair; Senator Joe Bowen, Representatives Tom Burch, and Joni L. Jenkins; Kevin Brown, Adam Lantman, Barry Lee, Elizabeth Miles, Greg E. Mitchell, Rita Muratalla, Wilson Sears, Dan Seum, Jr., Julian Tackett, and Jerry Young.

Legislative Guest: Senator Dan Seum.

Guests: Tom Bower, Sports Director, Kentucky Basketball Academy. Joel



Taylor, Head Coach, Bowling Green Junior High School. Brent Jackson, Head Coach, Corbin Middle School. Craig Foley, Head Coach, Frankfort High School. Dan Volpe, future Task Force member.

LRC Staff: Janet Stevens, Bryce Amburgey, Greg Hager, and Stella Mountain.

#### **Approval of the Minutes from July 16, 2012 Meeting**

Upon motion made by Representative Burch and second by Senator Bowen, the minutes of the July 16, 2012 meeting were approved by voice vote, without objection.

#### **Presentation: Creating Opportunities for Middle School Athletes To Improve Their Performance**

Tom Bower, Sports Director at the Kentucky Basketball Academy (KBA), said the academy is a 50,000 square foot facility with five indoor basketball courts. It is home to one of the largest youth basketball and volleyball leagues and clinics in Kentucky and hosts many of the largest youth basketball tournaments in Kentucky and the region. The academy offers basketball and volleyball opportunities to individuals from ages 3 and up through leagues, camps, and tournaments. Scholarships are available to youth who are unable to afford entry fees.

The KBA Middle School State Tournaments are open to school teams in Kentucky at no cost with no qualifying needed. Tournaments are held for boys and girls in grades 6 to 8. Teams must be official school teams, ensuring that each player has passed the physical examination required by schools to play interscholastic sports. The tournaments are scheduled on dates that allow for all teams who choose to participate. KBA also provides leagues for students who do not make the school team.

In response to questions from Senator Bowen, Mr. Bower said KBA is open to persons from 3 years through adults. He said that the KBA leagues are similar to those offered by local parks and recreation programs.

In response to questions from Representative Rollins, Mr. Bower said KBA does not have restrictions on practice times or length of seasons; it only provides the venue for tournaments. The teams have to be official school teams and an official school coach has to be present.

In response to questions from Mr. Sears, Mr. Bower said that league play rarely overlaps school leagues. Most players are those who did not make it onto the school team or play other sports. It is possible that players play in the KBA league and the school league, but KBA does not monitor that. KBA tries to schedule play to avoid overlap with other school tournaments.

In response to questions from Mr. Seum, Mr. Bower said that KBA sets the dates for middle school tournaments. KBA employs two certified security personnel and in case of any medical emergency, the ambulance service is located 3 minutes

from its facility.

In response to questions from Mr. Tackett, Mr. Bower said that KBA sets the dates for the KBA State Tournaments and teams sign up if they wish to participate. These middle school tournaments are separate from other leagues KBA offers throughout the year for ages 3 through adults.

In response to a question from Senator Wilson, Mr. Bower said that the number of school teams participating in the tournaments varies.

In response to a question from Mr. Volpe, Mr. Bower said that the KBA employees have no safety training; they are only trained to call the ambulance service in case of an emergency.

In response to questions from Representative Jenkins, Mr. Bower said that both public and private schools participate in KBA events. No Catholic schools from Jefferson County participate, and there is not much participation from other schools in that county.

In response to a question from Senator Bowen, Mr. Bower said that KBA and the Kentucky High School Athletic Association (KHSAA) have no partnership.

In response to a question from Mr. Sears, Mr. Bower said that KBA will not contact schools about bad behavior by coaches or teams. KBA would respond should it be contacted by a school. Nothing out of the ordinary has occurred.

In response to questions from Senator Wilson, Mr. Bower said that KBA follows KHSAA guidelines. KBA does not require proof of insurance for players. By only allowing official school teams to participate, KBA is assured that all participating athletes have passed the Pre-Participation Physical Exam (PPE).

#### **Presentation: Kentucky Middle School Football – Perspective of the Kentucky Middle School Football Association (KYMSFA) and the KYMSFA Recommended Options for the Creation of Best Practice Guidelines and Support to Non-Profit Organizations to Improve Middle School Athletics**

Greg Mitchell, KYMSFA President, said that, in 2007, several middle school football coaches recognized a void in the governance and regulatory structure of middle school athletics in Kentucky and formed the KYMSFA. Amendments created by the 1993-1994 Commission on Interscholastic Athletics revised the KHSAA Constitution to state that the KHSAA is composed of the public schools in grades 6-12, rather than the previous range of grades 9-12. The inclusion of grades 6-8 to the KHSAA was designed to regulate middle school students who played high school interscholastic athletics, not to regulate middle school athletics.

Middle school football at the time had no uniform regulatory structure, including no age limitations, no unified season, no standard game time, no

standard requirements for coach training, no organized opportunities for coach training, and no standard rules of play. KYMSFA was formed to provide an organization for middle school football coaches, parents, and school administrators to work together. KYMSFA provides rules for the conduct of the sport, provides a forum of communication, offers training and educational opportunities, coordinates a championship playoff structure, and provides other benefits requested by the membership. KYMSFA is made up of member middle school football programs across the state. KYMSFA is a 501(c)(3) non-profit organization, is member represented with board representation from across the state, holds annual meetings, has a professionalism committee, and offers training/safety sessions. KYMSFA is made up of volunteers.

Mr. Mitchell shared some history on KYMSFA. In 2008, its first year of existence, KYMSFA had 58 members. The 7<sup>th</sup> and 8<sup>th</sup> grade playoff system was based on the conference system and independents, and the semi-finals and championship games were played in one day. The association initiated basic rules of play, created a verified roster system, and initiated the first middle school 7-on-7 tournament at the University of Kentucky. In 2009, the playoff system increased to two divisions for the 8<sup>th</sup> grade, the points system was added, the semi-finals and championship games were played on consecutive days due to feedback received from participating superintendents, and the East-West All-Star Classic was introduced. KYMSFA requested but was not granted participation on the legislative task force on sports safety. In its third year, KYMSFA membership continued to grow and the Jefferson County Public Schools joined. KYMSFA initiated the State Cheer Championship, the basic rules of play and forms were improved, and participation in project RIO, a sport safety training program, was urged. KYMSFA has had very few sport injuries. The association has no insurance. In 2011, the KYMSFA membership increased to 157 members and a third division for the 8<sup>th</sup> grade was added to the playoff system.

Mr. Mitchell referred to information included in the handout. Some changes have been made to the rules, and this is the first year that coach training is required. A few more additions are needed to avoid confusion. He said that he does not want middle school athletics to be overregulated.

Mr. Mitchell showed a slide with details about the 2010 state playoffs involving teams from across Kentucky. He briefed the committee on awards ceremonies, the Middle School Cheer Competition, game broadcasts, and volunteer teamwork. He gave feedback on this year's State Championship Tournament and mentioned what a great experience it was for coaches and athletes.

Mr. Joel Taylor, head coach of the Bowling Green Junior High football team,

said his team has benefited from being a member of KYMSFA. The level of middle school football has improved, and the players and coaches are more motivated. Players are enjoying exposure to other teams in Kentucky, and some players have been fortunate to play on a national level at the Eastbay Youth All-American Bowl football game in Texas. Players realize the importance of education, understand the opportunities that are available to them at the college level, and want to play well.

Mr. Brent Jackson, head coach, Corbin Middle School, said that the camaraderie among coaches has improved since KYMSFA was formed. The number of students playing football has increased at his school since it joined KYMSFA. Students are excited and want to be part of something special. The players are enthusiastic, and he as their coach is excited to see the positive effect football and being part of KYMSFA has on them; it has re-energized his coaching experience.

Mr. Craig Foley, head coach, Frankfort High School, said the KYMSFA playoffs give students something to strive for and student athletes have more incentive to maintain good grades. Being part of KYMSFA has provided more opportunities for students to make friends at other schools. Since the formation of the association, the team is taking more safety precautions.

Senator Wilson and Senator Bowen commended KYMSFA officials for what they have done.

In response to a question from Senator Bowen, Mr. Mitchell said that KYMSFA administration members are all volunteers. Senator Bowen commented that volunteer participation can be cyclical, which can harm continuity. Mr. Mitchell said that the KYMSFA is conscious of this. The board has expanded to 9 members, and for the past 2 years, one paid staff member handles all the forms.

In response to questions from Mr. Lee, Mr. Mitchell said that a survey revealed little negative feedback. KYMSFA has little participation from Northern Kentucky and the Catholic schools in Jefferson County. For the first 4 years of KYMSFA's existence, membership dues were \$50 per year and the association received 20 percent of gate fees from playoffs. In the following year, teams participating in the playoffs had to pay \$500 obtained from sponsorships from local businesses, but this generated criticism. Now membership dues are \$250 per team, no playoff fees are required, and additional funds are generated through t-shirt sales.

Representative Rollins mentioned that a 300-pound middle school student in Texas was not allowed to play middle school football. In response to questions from Representative Rollins, Mr. Mitchell said that KYMSFA does not set the schedule. Member teams generally do not play teams that are not members of KYMSFA to ensure that everybody adheres to the same standard rules. Generally, the



season runs from the second week in July to the first week in November. KYMSFA has a game limitation. Teams need to play a minimum of 8 games in a regular season to qualify for playoffs. Teams qualify for the playoffs through conference championships.

In response to questions from Representative Rollins, Mr. Mitchell said that it is more advantageous to have an association for each sport instead of one larger organization for all sports. Associations for each sport are more cost efficient. Keeping members and having them renew their memberships each year is an incentive for the association to do a good job. Sports each have distinct characteristics and coaches know if issues need to be addressed.

In response to questions from Mr. Sears, Mr. Mitchell said that a 7<sup>th</sup> grader can play up if his team has been eliminated. There is no issue with scheduling three games per week, but a team may not play two games in one day. A middle school team may play a maximum of 15 games per year but there can be exceptions.

In response to questions from Mr. Tackett, Mr. Mitchell said that the board has discussed the issue of multiple contact practices on consecutive days. The board has looked at safety research but there is a lack of relevant data available. Requirements for coaches fall under the purview of the schools. To encourage participation, KYMSFA allows multi-school teams as long as the middle schools agree. Mr. Mitchell agreed with Mr. Tackett that there should be minimal guidance by the legislature for middle school athletics.

In response to questions from Mr. Lantman, Mr. Mitchell said that the insurance premium for the KHSAA Catastrophic Policy for the high schools is approximately \$200,000. It would cost substantially more for middle schools. A governing body providing a basic framework and institutional oversight for all sports could be helpful.

Senator Seum said that the Farnsley Middle School football program mandated that players have a higher GPA than the school system required. Tutors were arranged to help the players achieve that. He said that many minority students are in the program; many come from fatherless homes, and they are hungry for adult supervision. He thanked Mr. Mitchell and KYMSFA volunteers for a tremendous program. He expressed his concern about liability.

#### **Adjournment**

Senator Wilson announced that the next meeting will be held on September 17. The meeting was adjourned at 2:45 PM.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE Minutes**

September 5, 2012

### **Call to Order and Roll Call**

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, September 5, 2012, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, David Givens, Vernie McGaha, Dennis Parrett, and Joey Pendleton; Representatives Royce W. Adams, Tom McKee, Terry Mills, Ryan Quarles, and Tommy Turner.

Guests: Mr. Roger Thomas, Mr. Joel Neaveill, Mr. Bill McCloskey, Mr. Brian Murphy, Ms. Angela Blank, and Mr. Biff Baker Governor's Office of Agricultural Policy; Ms. Kimberly Richardson, Kentucky Division of Conservation.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Kelly Blevins.

The August 1, 2012, minutes were approved, without objection, by voice vote, upon motion by Senator Givens and second by Senator Parrett.

### **Governor's Office of Agricultural Policy**

The committee received the monthly report from Mr. Roger Thomas, Executive Director, Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), regarding project funding decisions made by the Agricultural Development Board (ADB) during its August meeting.

GOAP officials responded to committee members' questions during the summary of funding allocations made under the County Agricultural Improvement, Deceased Farm Animal Disposal Assistance, On-Farm Energy, and Shared-Use programs from the previous month.

Officials explained to Representative McKee and Senator Pendleton some of the program requirements, funding status, and application evaluation procedures related to the On-Farm Energy Program. According to their testimony, the energy funds are supposed to be used solely for farming purposes.

GOAP next reviewed the local and regional projects approved for funding during the recent board meeting. Those included: Blue Grass Community Foundation, \$25,000 in Fayette County funds for a food policy coordinator program; Owen County 4-H Club Council, \$20,000 for a youth livestock cost-share program; Western Kentucky University Research Foundation, \$23,950 in Barren County funds for a new Mesonet station; and FoodChain Inc., \$12,500 in Fayette County funds to construct an indoor closed-loop aquaponics system at a site in downtown Lexington.

GOAP officials responded to questions and comments from Senators Hornback and Givens, and Representative Stone regarding the Bluegrass Community Foundation project. In their testimony,

it was noted the organization would be revising its budget to account for a reduction in the original funding request. According to their testimony, the goal of the project is to look for ways to help meet a demand for locally-grown produce that would be available for Fayette County markets, institutional buyers, and household consumers.

GOAP officials also responded to committee members' questions regarding the WKU Research Foundation Mesonet project. The Mesonet is a weather and climate monitoring system that provides data for farmers and other users. The system has several partners, including the National Weather Service. According to Mr. Thomas, the Barren County Council had provided funding for one Mesonet station and decided to fund an additional one in another part of the county. Mr. McCloskey said Mesonet stations exist in several parts of the state. The goal is to serve about 100 counties.

GOAP officials told committee members that even though the funding is committed for three years, the Mesonet service will continue after that. Some committee members talked about the value of Mesonet data, such as knowing what wind speeds are when applying chemicals on farm fields. GOAP officials also said additional information will be provided about past funding to Senator Gibson.

Regarding the FoodChain project, GOAP officials indicated to committee members that the endeavor is part of the revitalization of downtown Lexington, and is agriculture-oriented. Those involved will be working with Kentucky State University, which has a recognized aquaculture instruction and research program.

### **Division of Conservation Report**

The committee received the annual report on the soil and water quality cost share program and soil stewardship program from Ms. Kimberly Richardson, Assistant Division Director.

Ms. Richardson reviewed the history and purpose of the program, funding, significant conservation efforts, including the 100,000-acre Green River Conservation Reserve Enhancement Program (CREP) and the multicounty Mississippi River Basin Initiative, plus the various wetland, conservation, and watershed projects.

Responding to Co-chair Hornback, Ms. Richardson said the Division is looking ahead to the time that the Green River CREP will end. She said the Mississippi River Basin project will overlap some of the Green River counties. Senator Hornback suggested that the Division issue a warning to farmers who fail to properly maintain their waterways.

During a review of the counties impacted by the soil erosion and water quality cost share program, she indicated to Senator Gibson that landowners in coal counties are more apt to seek out environmental funding rather than soil erosion cost-share funding.

Documents distributed during the

committee meeting are available with meeting materials in the LRC Library.

The meeting adjourned at approximately 11:30 a.m.



# 2013 Prefiled Bills

## BR 17 - Representative Mike Harmon (06/08/12)

AN ACT relating to driving under the influence.

Amend various sections in KRS Chapter 189A, relating to driving under the influence, to restructure the existing penalties from a four-tiered structure to a three-tiered structure; expand the look-back window for prior offenses from five years to ten years, and to allow forfeiture of motor vehicles used in a DUI if the operator's license had been previously suspended; amend KRS 281A.2102 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

## BR 26 - Senator Denise Harper Angel (06/20/12)

AN ACT relating to dating violence.

Amend KRS 403.720 to include persons in dating relationships within the coverage of Kentucky's domestic violence laws.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

## BR 40 - Representative Arnold Simpson (08/22/12)

AN ACT relating to the sale of alcoholic beverages on election days.

Amend KRS 244.290 to permit the sale of distilled spirits and wine on any primary, or regular, local option, or special election day; authorize the legislative body or fiscal court of a first through fourth class city or the legislative body of any form of county government to adopt an ordinance to prohibit or limit the hours and times of distilled spirits and wine sales within its boundaries on any primary, or regular, local option, or special election day; limit the changes regarding election day sales to territories that already allow some form of alcohol sales; forbid the fiscal court of a county containing a first through fourth class city from changing an election day sales decision made by a first through fourth class city within that county; preclude the county from imposing an action on a first through fourth class city if that city has taken no formal action regarding election day sales; amend KRS 244.295 to remove the prohibition against the sale of distilled spirits and wine on a primary or election day in an urban-county government; amend KRS 244.480 to permit the sale of malt beverages on any primary, or regular, local option, or special election day; authorize the legislative body or fiscal court of a first through fourth class city or the legislative body of any form of

county government to adopt an ordinance to prohibit or limit the hours and times of malt beverage sales within its boundaries on any primary, or regular, local option, or special election day; establish malt beverage territorial limitations and county government restrictions identical to those for distilled spirits and wine; make technical changes; amend KRS 119.215 to conform; repeal KRS 242.100.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

## BR 45 - Representative David Floyd (07/12/12)

AN ACT relating to fire protection services.

Create a new section of KRS Chapter 75 to define "city" and "fire district"; grant cities the primary right to provide fire protection services for city territory, subject to certain limitations; create a process for the provision of fire protection services to newly annexed territory; create a formula to determine the proportion of fire district indebtedness owed by the city and allow three years to pay this indebtedness; allow a fire district to continue to provide fire protection services in certain situations if written agreements are entered into with the city; amend KRS 75.010, 75.020, and 75.040 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Local Government

## BR 50 - Senator Alice Forgy Kerr (09/17/12)

AN ACT relating to violent offenders.

Amend KRS 439.3401 to provide that persons convicted of criminal homicide under KRS Chapter 507 shall be classified as a violent offender and subject to mandatory service of time and all applicable restrictions on parole and service credits.

(Prefiled by the sponsor(s).)

## BR 54 - Representative Dennis Keene (08/14/12)

AN ACT relating to dogs.

Amend KRS 258.095 to amend the definition of who qualifies as the owner of a dog to include persons permitting the dog to remain on or about premises owned and occupied by the person.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Agriculture

## BR 55 - Senator Perry B. Clark (08/15/12)

AN ACT relating to medical marijuana.

Create various new sections of KRS Chapter 218A to establish a comprehensive system for medical marijuana in Kentucky, including provisions for medical verification of need, persons allowed to cultivate, use, and possess the drug, organizations allowed to assist in providing the drug, regulation by the state Department for Public Health, the interaction with state and local governments, including law enforcement, with persons and entities coming within the purview of the Act, and establishing required reporting and review procedures; amend KRS 218A.040 to conform; name the Act the Gatewood Galbraith Medical Marijuana Memorial Act.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

## BR 65 - Representative Kim King (08/02/12)

AN ACT relating to legislative procedures for state fiscal measures.

Create a new section of KRS Chapter 6 to require roll call votes on any appropriation or revenue raising measure voted upon in the Senate or House or a committee thereof; require identification of appropriation or revenue measures as state fiscal measures by the Director of the Legislative Research Commission, or upon a determination by the Senate or House or a committee of either; require separate votes for appropriations or revenue measures; require committees to vote on appropriation and revenue measures by roll call votes.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

## BR 66 - Representative Kim King (08/02/12)

AN ACT relating to foreign law. Create new sections of KRS

Chapter 454 to establish legislative intent that the rights of an individual afforded under the Constitutions of the Commonwealth and the United States take precedence over the application of any foreign law in any judicial or quasi-judicial proceeding; define specific terms; strictly construe waivers of constitutional rights; provide exceptions for corporate entities; prohibit choice of venue outside of the Commonwealth or United States to preserve the constitutional rights of the person against whom enforcement is sought.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

## BR 68 - Representative Kim King (08/02/12)

AN ACT relating to school

notification of persons authorized to contact or remove a child.

Create a new section of KRS Chapter 620 to require the Cabinet for Health and Family Services, if the cabinet is granted custody of a dependent, neglected, or abused child, to notify the school in which the child is enrolled of persons authorized to contact the child or remove the child from school grounds.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

## BR 77 - Representative Arnold Simpson (08/14/12)

AN ACT relating to the angel investor tax credit.

Create new sections of Subchapter 20 of KRS Chapter 154 to establish the angel investor tax credit program for certain investments in small businesses; define terms; state Act's title and purposes; list requirements for small businesses and investors to qualify for participation; require the Kentucky Economic Development Finance Authority (KEDFA) to establish the application process; cap the total amount of angel investor and Kentucky Investment Fund Act tax credits available in all years at \$40,000,000; require KEDFA to maintain a Web site listing all businesses and investors certified and all credits awarded; require small businesses to report annually and allow for tax credit recapture in certain circumstances; amend KRS 152.20-255 to provide that the total amount of tax credits available in the Kentucky Investment Fund Act program and the angel investor program is \$40,000,000 in all years; create a new section of KRS Chapter 141 to establish the credit; amend KRS 141.0205 to provide the ordering of the credit.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

## BR 82 - Senator Dennis Parrett (08/22/12)

AN ACT relating to retirement.

Amend KRS 6.505 to close the Legislators' Retirement Plan to new participants effective August 1, 2013; amend KRS 6.515 to increase the cost of purchasing active duty military service to the full actuarial cost in the Legislators' Retirement Plan, to prohibit service purchases made on or after August 1, 2013, from being used to vest for retiree health benefits in the Legislators' Retirement Plan, and to require service purchased on or after August 1, 2013, in the Legislators' Retirement Plan to assume the earliest retirement date and cost-of-living adjustments in determining the appropriate actuarial cost; amend KRS 6.525 to prohibit salary earned in another state-administered system



from being used to determine benefits in the Legislators’ Retirement Plan if the member does not have service in the other state-administered retirement systems prior to August 1, 2013; amend KRS 61.680 to conform and to make technical amendments; EFFECTIVE August 1, 2013.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on State Government

BR 84 - **Senator John Schickel (08/23/12)**

AN ACT relating to the sale of alcoholic beverages on election days.  
Amend KRS 244.290 to permit the sale of distilled spirits and wine on any primary, or regular, local option, or special election day; authorize the legislative body or fiscal court of a first through fourth class city or the legislative body of any form of county government to adopt an ordinance to prohibit or limit the hours and times of distilled spirits and wine sales within its boundaries on any primary, or regular, local option, or special election day; limit the changes regarding election day sales to territories that already allow some form of alcohol sales; forbid the fiscal court of a county containing a first through fourth class city from changing an election day sales decision made by a first through fourth class city within that county; preclude the county from imposing an action on a first through fourth class city if that city has taken no formal action regarding election day sales; amend KRS 244.295 to remove the prohibition against the sale of distilled spirits and wine on a primary or election day in an urban-county government; amend KRS 244.480 to permit the sale of malt beverages on any primary, or regular, local option, or special election day; authorize the legislative body or fiscal court of a first through fourth class city or the legislative body of any form of county government to adopt an ordinance to prohibit or limit the hours and times of malt beverage sales within its boundaries on any primary, or regular, local option, or special election day; establish malt beverage territorial limitations and county government restrictions identical to those for distilled spirits and wine; make technical changes; amend KRS 119.215 to conform; repeal KRS 242.100.  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Licensing and Occupations

BR 88 - **Representative Fitz Steele (08/14/12)**

AN ACT relating to sales and use tax holidays and declaring an emergency.  
Create a new section of KRS Chapter 139 to establish a three day sales and use tax holiday the first weekend in August each year to exempt clothing, school supplies, school art supplies, computers, and school computer supplies; EMERGENCY.  
  
(Prefiled by the sponsor(s).)  
To: Interim Joint Committee on Appropriations and Revenue

BR 89 - **Representative Fitz Steele (08/29/12)**

AN ACT relating to dextromethorphan abuse.  
Create new sections of KRS Chapter 218A to prohibit any person from possessing one gram or more of pure dextromethorphan or dextromethorphan that has been extracted from solid or liquid form; prohibit sale of products containing dextromethorphan as the only active ingredient to individuals younger than 18; require any person selling a product containing dextromethorphan to require that prospective buyers show a photo ID and sign a document stating the customer is older than 18 before purchase; create an affirmative defense for the retailer if a minor utilizes a fraudulent ID; prohibit individuals younger than 18 from possessing a product that contains dextromethorphan as the only active ingredient; prohibit individuals younger than 18 from misrepresenting their age and from utilizing a fraudulent ID to purchase or obtain dextromethorphan; establish penalties for violation.  
(Prefiled by the sponsor(s).)

BR 90 - **Senator Tom Buford (09/19/12)**

AN ACT relating to exemption of religious organizations from the insurance code.  
Amend KRS 304.1-120, containing exclusions from the insurance code, to delete the religious publication exclusion and substitute a religious organization exemption; require notice for delivery to all participants that sharing of medical expenses is not insurance and establish notice requirements; delete the requirements that payments shall be made directly from one subscriber to another, that subscriber amounts are voluntary with no assumption of risk or promise to pay, and the verbatim disclaimer statement.  
(Prefiled by the sponsor(s).)

BR 91 - **Representative David Floyd (09/04/12)**

AN ACT relating to retirement.  
Create a new Section of KRS 61.510 to 61.705 to prohibit future members of the General Assembly from participating in the Kentucky Employees Retirement System unless they participated in the Kentucky Employees Retirement System as a member of the General Assembly prior to August 1, 2013; allow current members of the General Assembly participating in the Kentucky Employees Retirement System to make a one-time election to discontinue participation; amend KRS 6.505 to close the Legislators’ Retirement Plan to new members effective August 1, 2013, and to allow current members of the General Assembly participating in the Legislators’ Retirement Plan to make a one-time election to discontinue participation; amend KRS 61.510 and 61.680 to conform.  
  
(Prefiled by the sponsor(s).)

BR 92 - **Representative David Floyd (09/04/12)**

AN ACT relating to retirement.  
Amend KRS 6.525 to prohibit members of the Legislators’ Retirement Plan, who begin contributing on or after August 1, 2013, from using salary earned in another state-administered retirement system or plan to calculate benefits in the Legislators’ Retirement Plan; allow members of the Legislators’ Retirement Plan contributing to the plan prior to August 1, 2013, to make a one-time election to have their benefits from the Legislators’ Retirement Plan based solely on their legislative salary.  
(Prefiled by the sponsor(s).)

BR 99 - **Senator Tom Buford (09/11/12)**

AN ACT relating to retirement.  
Amend KRS 6.505 to close the Legislators’ Retirement Plan to new members who take office on or after August 1, 2013; amend KRS 61.510 to close the Kentucky Employees Retirement System to members of the General Assembly who take office on or after August 1, 2013; amend KRS 61.680 to conform.  
  
(Prefiled by the sponsor(s).)

BR 149 - **Representative Michael J. Nemes (09/19/12)**

AN ACT relating to non-felony expungements.  
Amend KRS 431.078, relating to expungement of misdemeanor and violation arrest records, to clarify that the term “violation” as used in that statute has the same meaning as set out in the Kentucky Penal Code.  
(Prefiled by the sponsor(s).)

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- 227 Issues Confronting the 2009 General Assembly: An update of Informational Bulletin No. 224 (2008)
- 226 General Assembly Action, Regular Session 2008
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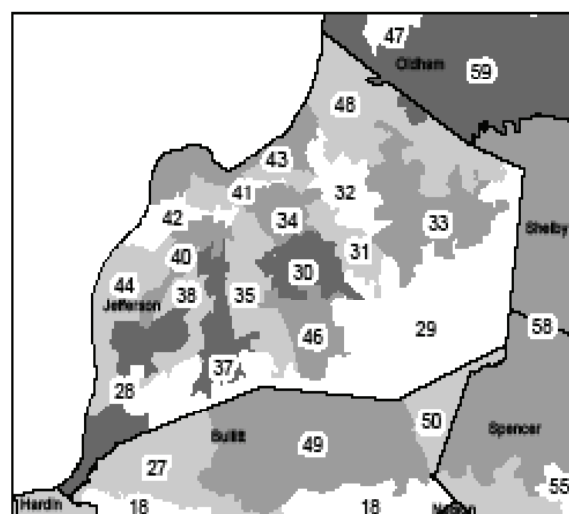
## Research Reports

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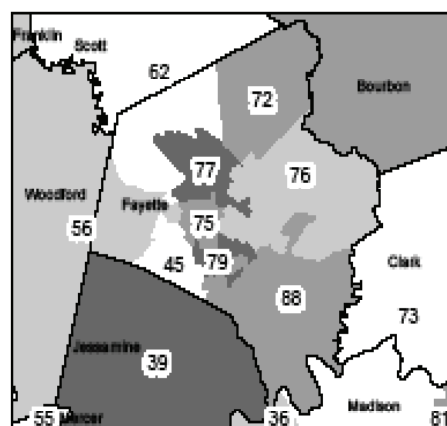




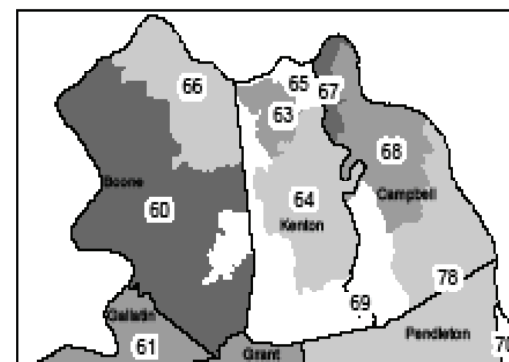




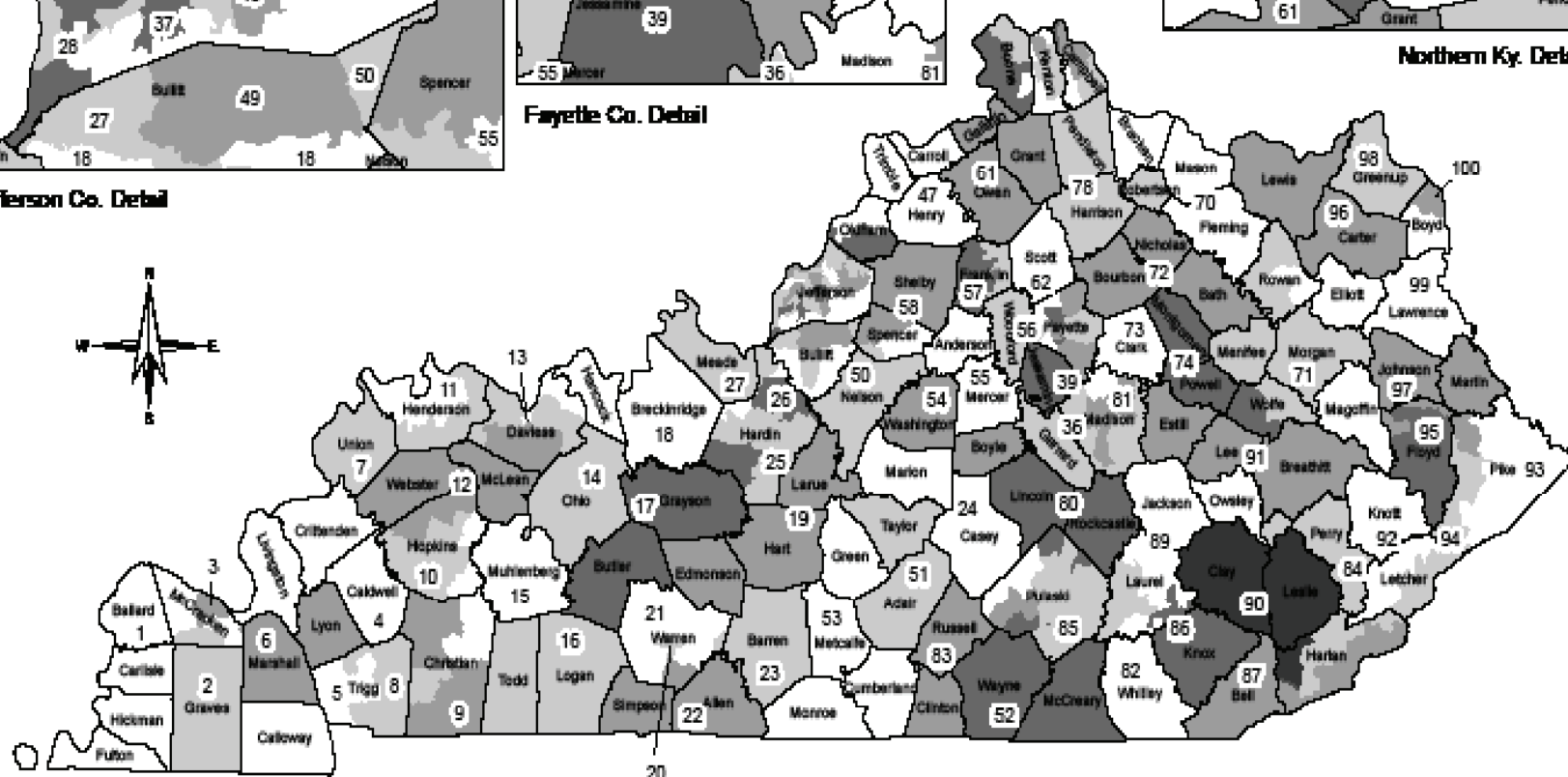
**Jefferson Co. Detail**



**Fayette Co. Detail**



**Northern Ky. Detail**



# 2002 Kentucky House Districts

House Plan (HB001A11) became law (KRS 5.201 - 5.300) January 31, 2002, with enactment of House Bill 1.

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