

2013 Interim LEGISLATIVE

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* Read on-line at www.lrc.ky.gov/legislation.htm*

RECORD

Innovation districts show positive results

by Amy Rose Karr
LRC Public Information

Some Kentucky school districts are using innovative research-based teaching methods to better meet the needs of students, members of the Interim Joint Committee on Education heard during a Sept. 9 meeting.

Schools in Danville, Eminence, Jefferson County and Taylor County were designated as Districts of Innovation earlier this year.

These districts were the first to receive the designation -- established by House Bill 37 in 2012 -- and were granted specific waivers that would allow them to implement their proposed innovations, David Cook, a director with the Kentucky Department of Education, told lawmakers.

According to Cook, the districts were chosen from a group of 16 applicants scored against an eight-point rubric in a non-competitive process. Districts of Innovation allow teachers to tailor curricula to meet each student's learning style, needs and goals, and allow students to progress

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Lawmakers hear testimony on Bluegrass Pipeline proposal

by Rebecca Hanchett
LRC Public Information

A proposed interstate natural gas liquids pipeline that would impact landowners in at least 25 Kentucky counties does not qualify under the state's eminent domain law, the head of the state's Energy and Environment Cabinet stated on Sept. 5.

Cabinet Secretary Len Peters made the comment during the meeting of the Interim Joint Committee on Natural Resources and Environment in Frankfort. He said while his agency does not have the authority to stop the proposed "Bluegrass Pipeline" project—which would transport natural gas liquids (NGLs), like ethane and propane extracted from natural gas deposits in the Northeast U.S., through Kentucky and surrounding states and on to the Gulf Coast—the Cabinet's legal counsel does not believe the power of eminent domain can be invoked by the companies that would build it. The 1,123 mile NGL pipeline would travel through Pennsylvania, West Virginia, Ohio, Kentucky, and down to the Gulf.

Mike McMahon, chief general counsel for Boardwalk—half of the team of Williams and Boardwalk that plans to build the Bluegrass Pipeline—said Kentucky law does give the companies the power of eminent domain, if necessary (i.e., a landowner does not consent to his or her land being utilized for the

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Sen. Joe Bowen, R-Owensboro, asks a question of witnesses during the Sept. 5 Natural Resources and Environment Committee meeting.

E-cigs 'quite harmful', says UK cancer center chief

by Rebecca Hanchett
LRC Public Information

Limited research to date on electronic cigarettes—or e-cigarettes—show they are "quite harmful," University of Kentucky Markey Cancer Center Director Dr. Mark Evers told a legislative panel on Sept. 4.

Dr. Evers told the state legislative Tobacco Settlement Agreement Fund Oversight Committee that current research on e-cigarettes indicates the devices may be "every bit as dangerous" as smoking tobacco. He commented on the safety of the products after being questioned about them by Sen. Robin Webb, D-Grayson.

E-cigarettes, which resemble tobacco-filled cigarettes, are devices that deliver a vaporized solution which may or may not include nicotine or flavoring.

"I really think this is the new ploy by the companies to say this is a safe alternative which by the research...it's not," Evers told the panel. "The research that's coming out—and, grant you, it's been limited research to date—has shown that e-cigarettes are quite harmful."

Webb said some local jails are providing the devices to inmates at cost, but that she can't find "valid research" on them. She wanted to know the impact of the chemicals used in e-cigarettes on

human health.

"We are the custodians of these inmates," she told fellow lawmakers.

Research on e-cigarettes is currently underway, including research at the University of Kentucky where Dr. Ellen Hahn, Ph.D. is studying smoking substitutes like e-cigarettes in cooperation with the Kentucky Lung Cancer Research (KLCR) Program, explained Evers. Hahn's research is funded in part by a grant through the Federal Drug Administration (FDA) and NIH, Evers said.

Evers spoke to the committee on the latest developments in the Kentucky Lung Cancer Research

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Innovation districts, from page 1

through subject material at their own pace, he said.

They also have a strong focus on improved student outcomes, he said.

“We want to see the Kentucky graduate lead the nation,” Buddy Berry, Superintendent of Eminence Independent Schools, said. “In our first year alone...we doubled the number of college and career-ready

graduates from 37 percent to 74 percent,” he said.

Lawmakers commended the work of those involved with the program.

Roger Cook, Superintendent of Taylor County Schools, told law-

makers no student had dropped out of his district in four years.

“Kids don’t want to drop out. We empower them,” he said.

In response to questions from lawmakers, David Cook said Districts of Innovation will be monitored and supported through

Proposed pipeline, from page 1

pipeline project) to obtain right-of-way. Eminent domain can be invoked under Kentucky law for public use projects, and McMahan said the pipeline qualifies since it would transport oil and gas products “in public service.”

Sen. Whitney Westerfield, R-Hopkinsville, said he does not believe the project qualifies since it is not, in his view, a “public utility.”

Right-of-acquisition, permitting, regulatory consultation, and surveys undertaken by Williams and Boardwalk as part of the Bluegrass Pipeline project is expected to continue into 2014. The timeline for the project, found at www.bluegrasspipeline.com, says the pipeline should be operation-



Sen. Gerald Neal, D-Louisville, comments and asks questions during the Sept. 9 meeting of the Interim Joint Committee on Education in Frankfort.

goal-tracking, evaluations, site visits and monthly conversations. Other Kentucky school districts can apply for the designation through a second-year application process that will take place later this year, he said.

Lawmakers commended the

work of those involved with the program.

“I believe the students... don’t just have advocates, they have champions,” Rep. Jill York, R-Grayson, said.

al by late 2015.

As planned, the Bluegrass Pipeline would carry NGLs from the Marcellus and Utica shale deposits of the Northeast U.S. to the Gulf Coast by tying new NGL pipeline into an existing conduit located between Hardinsburg, KY and south Louisiana. That existing pipeline would be converted to carry NGLs, under the proposal.

The project would require acquisition of right-of-way for 160 miles of converted pipeline and 180 miles of new pipeline in Kentucky, according to Williams’ Senior Vice President for Corporate and Strategic Development Jim Scheel. Scheel said Williams and Boardwalk are prepared to pay between \$30 million and \$50 million to Kentucky landowners to acquire the right-of-way while leaving the deeds in the landowners’ hands.

Scheel assured the committee and a large public audience at the meeting that the Bluegrass Pipeline project would be well regulated at both the federal and state levels, that land acquired for the project would be left in “usable” condition, and that the project would bring jobs to the Commonwealth. He said the pipeline project would bring at least \$136 million in tax revenue to the state, along with around 1,500 construction jobs and the \$30 million to \$50 million in payments to landowners.

Speaking in opposition to the pipeline was attorney Tom FitzGerald of the Kentucky Resources Council, which is advocating for landowners who are opposed to the project. Besides questioning the pipeline’s safety in light of recent NGL pipeline leaks

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General Assembly’s 2014 session begins Jan. 7

A schedule for the Kentucky General Assembly’s 2014 session has been approved by legislative leaders.

The session is scheduled to convene on Jan. 7 and adjourn April 15. It is expected to last 60 working days – the maximum allowed by the state constitution in even-numbered years.

Legislators will not meet in session on Jan. 20 in observance of Martin Luther King, Jr. Day, or on Feb. 17 in observance of Presidents’ Day.

The veto recess – the period of time in which lawmakers return to their home districts to await possible gubernatorial vetoes of legislation – will last from April 1-11. Lawmakers will return to the Capitol on April 14 and 15 for the final two days of the session.

The session calendar can be viewed online at: http://www.lrc.ky.gov/sch_vist/14RS_calendar.pdf.

E-cigs, from page 1

Program along with fellow researcher, University of Louisville Brown Cancer Center Director Dr. Donald Miller. Both men are on the KLCR Program Governance Board.

The KLCR Program receives funding from Kentucky’s share of a 1998 settlement between 46 states and the nation’s largest tobacco companies. The settlement allowed states to recoup Medicaid dollars spent on smoking-related illnesses, including lung cancer.

Kentucky currently has one of the highest adult smoking rates in the nation at 29 percent, according to the Campaign for Tobacco-Free Kids. The percentage of Kentucky high school students who smoke is 24.1 percent.

Kentucky’s lung cancer incidence rate was 96.9 cases of lung and bronchus cancer per 100,000 people in 2009, according to the Centers for Disease Control and Prevention.

State UI fund on ‘path to solvency’, lawmakers told

by Rebecca Hanchett
LRC Public Information

KENTUCKY DAM VILLAGE—Kentucky’s balance on nearly \$1 billion borrowed from the federal government to cover a surge in unemployment benefits claims in recent years is expected to be around \$675 million by year’s end, state officials say.

Education and Workforce Development Cabinet Secretary Thomas Zawacki told the Interim Joint Committee on Labor and Industry on Sept. 10 that the federal loan advances should be reduced by over \$162 million in 2013, bringing the balance to the estimated \$675 million mark.

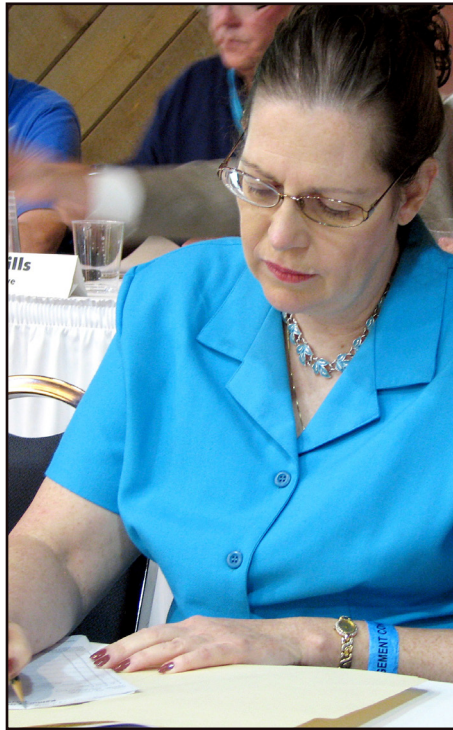
Kentucky has borrowed more than \$948 million from the federal government since early 2009 to cover a shortfall in the state’s unemployment insurance (UI) trust fund, according to state officials. In 2012, the Kentucky General Assembly passed House Bill 495, which allowed the state to borrow funds to pay interest on the federal loan and save employers \$600 million in tax penalties.

Funds borrowed to pay interest on the federal loan, as well as the interest, will be paid with a 0.22 percent surcharge on employers’ wages, Zawacki said. The surcharge will be implemented on Jan. 1, 2014, he said, adding that Kentucky is “on target to pay all our federal Title XII advances (federal unemployment loans) by 2017—five years earlier than originally anticipated.”

At least 30 states have borrowed money from the federal government to beef up their unemployment insurance programs during the recent recession, state officials say.

Year to date, benefits paid from the unemployment insurance trust fund are down 2.4 percent, from \$288 million for the same period in 2012 to \$281.9 million so far in 2013, Zawacki said. Meanwhile, contributions from employers to the trust fund are up 1.5 percent year to date—from \$431 million to \$437 million, he told the committee.

“So we continue to see progress



Above: Rep. Tanya Pullin, D-South Shore, takes notes during the Sept. 10 meeting of the Interim Joint Committee on Labor and Industry at Kentucky Dam Village. At right: Sen. Julian Carroll, D-Frankfort, (on right) talks with Rep. Jim Stewart, R-Flat Lick, before the meeting begins. Below right: Sen. Mike Wilson, R-Bowling Green, (on left) and Rep. Richard Henderson, D-Mount Sterling, talk about labor issues during a break.



in the contributions,” he told lawmakers.

The state’s unemployment insurance trust fund became insolvent in 2009 when benefits skyrocketed; Contributions paid into the fund were insufficient to cover the cost, based on a chart shared with the committee by Zawacki.

Zawacki told lawmakers that the trust fund is now “on a path to solvency” and will continue to be “as long as we stay on course.”

The committee also heard reports on new procedures for medical fee disputes from the Department of Workers’ Claims and labor-management relations and apprenticeship from Kentucky Labor Secretary Larry Roberts.

The meeting was held at Kentucky Dam Village State Resort Park in Gilbertsville in concert with the 36th Kentucky Labor-Management Conference.



2014 REGULAR SESSION CALENDAR

2014 REGULAR SESSION CALENDAR
(approved by LRC 9/4/13)

JANUARY

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10 *12:45 Posting required for vetoes House Bills	11
12	13	14 (1)	15 (2)	16 (3)	17 (4)	18
19	20 Martin Luther King, Jr. Day HOLIDAY	21 (5)	22 (6)	23 (7)	24 (8)	25
26	27	28 (9)	29 (10)	30 (11)	31 (12)	

*House Rule 49 states in part: "In the case of printed House bills receiving the affirmative vote of a majority of the House members of the interim joint committee to which they were assigned, posting by the clerk or the committee shall cover during the first four days of the session, and those bills may be considered by the appropriate committee during the first fifteen legislative days of the session. No posting request shall be required for those printed bills."

FEBRUARY

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
	(19)	(20)	(21)	(22)	(23)	
9	10 (24)	11 (25)	12 (26)	13 (27)	14 (28)	15
16	17 President's Day HOLIDAY	18 (29)	19 (30)	20 (31)	21 (32)	22
23	24 (33)	25 (34)	26 (35)	27 (36)	28 (37)	

() Denotes Legislative Day

2014 REGULAR SESSION CALENDAR
(approved by LRC 9/4/13)

MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3 Last Day for New House Bills (38)	4 (39)	5 Last Day for New Senate Bills (40)	6 (41)	7 (42)	8
9	10 (43)	11 (44)	12 (45)	13 (46)	14 (47)	15
16	17 (48)	18 (49)	19 (50)	20 (51)	21 (52)	22
23	24 (53)	25 (54)	26 (55)	27 (56)	28 Concurrence Only (57)	29
30	31 Concurrence Only (58)					

APRIL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 VETO	2 VETO	3 VETO	4 VETO	5 VETO
6	7 VETO	8 VETO	9 VETO	10 VETO	11 VETO	12
13	14 (59)	15 SINE DIE (60)	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

() Denotes Legislative Day

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LEGISLATIVE RESEARCH COMMISSION

Minutes of the 539th Meeting
September 4, 2013

Call to Order and Roll Call

The 539th meeting of the Legislative Research Commission was held on Wednesday, September 4, 2013, at 10:00 AM, in Room 125 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 Greg Stumbo, Co-Chair; Senators R.J. Palmer II, Dan “Malano” Seum, Brandon Smith, Katie Stine, Damon Thayer, and Johnny Ray Turner; Representatives Rocky Adkins, John Carney, Larry Clark, Bob M. DeWeese, Jeff Hoover, Sannie Overly, and Tommy Thompson.

Guests: Cheryl Lewis.

LRC Staff: Bobby Sherman, Christy Glass, Roy Collins, Robert Jenkins, and Laura Hendrix.

There being a quorum present, President Stivers called for a motion to approve the minutes of June 26, 2013; accept as indicated items A. through F. under Staff and Committee Reports; refer prefiled bills and administrative regulations as indicated and approve items C. through U. under New Business; and accept and refer as indicated items 1. through 53. under Communications. A motion was made by Representative Stumbo and seconded by Representative Clark. A roll call vote was taken, and the motion passed unanimously. The following items were approved, accepted, or referred.

The minutes of the June 26, 2013, meeting were approved.

Staff and Committee Reports

Information requests from June through August 2013.

Committee Activity Reports for June through August 2013.

Reports of the Administrative Regulation Review Subcommittee meetings of June 11, July 9, and August 5, 2013.

Committee review of administrative regulations by the Interim Joint Committee on Health and Welfare during its meeting of July 17 and August 21, 2013.

Committee review of Executive Reorganization Order 2013-389 by the Interim Joint Committee on Education during its meeting of July 8, 2013.

Committee review of Executive Reorganization Order 2013-418 by the Interim Joint Committee on Health and Welfare during its meeting of August 21, 2013.

New Business

Referral of prefiled bills to the following committees: **BR 42** (relating to the collection of delinquent taxes), **BR 64** (relating to coal severance revenues and declaring an emergency), **BR 78** (relating to the promotion of organ and tissue donation), **BR 99** (relating to motor fuels taxes), **BR 116** (relating to sales and use tax holidays and declaring an emergency), **BR 118** (relating to sales and use tax holidays and declaring an emergency), and **BR 138** (relating to TVA in-lieu-of-tax payments, making an appropriation therefor, and declaring an emergency) to **Appropriations and Revenue**; **BR 23** (relating to reporting on economic incentive programs) to **Economic Development and Tourism**; **BR 117** (relating to the employment of public school teachers) to **Education**; **BR 40** (relating to driving under the influence), **BR 102** (relating to weapons), and **BR 119** (relating to dextromethorphan abuse) to **Judiciary**; **BR 140** (relating to firefighters) to **Labor and Industry**; **BR 72** (relating to the reorganization of the Department of Fish and Wildlife Resources and the Department of Fish and Wildlife Resources Commission) to **Natural Resources and Environment**.

Referral of the administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6) and 158.6471(6): **11 KAR 3:100** (Administrative wage garnishment); **11 KAR 5:001** (Definitions pertaining to 11 KAR Chapter 5); **11 KAR 5:140** (KTG award determination procedure); **11 KAR 5:145** (CAP grant award determination procedure); **11 KAR 8:030** (Teacher scholarships); **11 KAR 15:040** (Kentucky Educational Excellence Scholarship award determination procedure); **11 KAR 15:090** (Kentucky Educational Excellence Scholarship (KEES) program); **11 KAR 16:001** (Definitions for 11 KAR Chapter 16); **11 KAR 16:010** (Early Childhood Development Scholarship Program applicant selection process); **11 KAR 16:040** (Early Childhood Development Scholarship Program recordkeeping requirements); **11 KAR 16:050** (Early Childhood Development Scholarship Program costs), and **11 KAR 16:060** (Early Childhood Development Scholarship Program system of monetary incentives) to **Education**; **201 KAR 22:045** (Continued competency requirements and procedures); **201 KAR 22:055E** (Interim standards for supervision for physical therapists); **201 KAR 22:130** (Per diem of board members); **900 KAR 6:030** (Certificate of Need expenditure minimums); **900 KAR 6:120** (Certificate of Need angioplasty two (2) year trial program); **900 KAR 6:125** (Certificate of Need annual surveys, and registration requirements for new Magnetic Resonance

Imaging units); **906 KAR 1:200** (Use of Civil Money Penalty Funds collected from certified long-term care facilities); **922 KAR 1:130 & E** (Kinship Care Program); **922 KAR 1:140 & E** (Foster care and adoption permanency services); **922 KAR 1:320 & E** (Service appeals); **922 KAR 1:400 & E** (Supportive services); **922 KAR 2:020** (Child Care Assistance Program (CCAP) improper payments, claims, and penalties); **922 KAR 2:090 & E** (Child-care center licensure); **922 KAR 2:100** (Certification of family child-care homes); **922 KAR 2:110** (Child-care center provider requirements); **922 KAR 2:120** (Child-care center health and safety standards); **922 KAR 2:160 & E** (Child Care Assistance Program), and **922 KAR 2:180** (Requirements for registered child care providers in the Child Care Assistance Program) to **Health and Welfare**; **803 KAR 2:300** (General); **803 KAR 2:307** (Hazardous materials); **803 KAR 2:308** (Personal protective equipment); **803 KAR 2:314** (Machinery and machine guarding); **803 KAR 2:320** (Toxic and hazardous substances); **803 KAR 2:400** (Adoption of 29 C.F.R. 1926.1-6); **803 KAR 2:403** (Occupational health and environmental controls); **803 KAR 2:404** (Personal protective and lifesaving equipment); **803 KAR 2:407** (Adoption of 29 C.F.R. Part 1926.250-252); **803 KAR 2:411** (Scaffolds); **803 KAR 2:418** (Underground construction, caissons, cofferdams, and compressed air); **803 KAR 2:419** (Adoption of 29 C.F.R. Part 1926.850-860); **803 KAR 2:425** (Toxic and hazardous substances); and **803 KAR 2:500** (Maritime employment) to **Labor and Industry**; **201 KAR 30:120** (Temporary appraisal licenses and certificates); **201 KAR 30:125** (Continuing education for appraisers); **201 KAR 30:150** (Education provider approval); **201 KAR 30:200** (Reciprocity requirements for applicants licensed or certified in another state); **201 KAR 31:010** (Fees); **201 KAR 31:020** (Compensation of board members); **201 KAR 31:040** (Applications and examinations); **201 KAR 31:050** (Renewals); **201 KAR 31:060** (Code of professional conduct); **201 KAR 31:080** (Geologist-in-training); **201 KAR 31:090** (Complaint management process); **201 KAR 43:010** (Application procedures for licensure); **804 KAR 4:031** (Repeal of 804 KAR 4:020, 804 KAR 4:030, 804 KAR 4:130, 804 KAR 4:140, 804 KAR 4:160, 804 KAR 4:170, 804 KAR 4:180, 804 KAR 4:200, 804 KAR 4:220, and 804 KAR 4:260); **804 KAR 4:250** (Special temporary licenses); **804 KAR 4:390 & E** (License renewals); **804 KAR 4:430E** (Issuance of licenses); **804 KAR 8:011** (Repeal of 804 KAR 8:010, 804 KAR 8:020, and 804 KAR 8:030), and **804**

KAR 9:010 (Quota retail license limits) to **Licensing and Occupations**; **815 KAR 7:125** (Kentucky Residential Code) to **Local Government**; **301 KAR 2:251** (Hunting and trapping seasons and limits for furbearers) to **Natural Resources and Environment**; and **601 KAR 1:147** (Auditing of U-drive-it permit holders) to **Transportation**.

From Senator John Schickel and Representative Dennis Keene, Co-Chairs of the Interim Joint Committee on Licensing and Occupations: Memorandum requesting approval to meet on September 16 in Lexington, rather than the regularly scheduled meeting date of September 13. There are no apparent conflicts.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum appointing memberships to Interim Joint Committee on Appropriations and Revenue (and subcommittee), Interim Joint Committee on Education, Interim Joint Committee on Agriculture, and Interim Joint Committee on State Government.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing the Amendment of Legislator Mailing Policy (Postage Allowance).

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing the suspension of August Interim Meetings.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum appointing Senator Mike Wilson and Representative Derrick Graham to the Education Commission of the States.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum appointing Trent Lovett, Keith Davis, Tim Bobrowski, and Nannette Johnston to the Local Superintendents Advisory Council.

From Senator Paul Hornback and Representative Wilson Stone, Co-Chairs of the Tobacco Settlement Agreement Fund Oversight Committee: Memorandum requesting approval to meet on October 30 in Bowling Green, in addition to the regular meeting date of October 2. There are no apparent conflicts.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing the Director of the Legislative Research Commission to contact the Director of the Southern Legislative Conference for the purpose of offering the Commonwealth of Kentucky and the city of Lexington as the host state and city for the 2016 Annual Meeting of the Southern Legislative Conference.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum approving the Final Report of the Subcommittee on 2014-2016 Budget Preparation and Submission.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing membership to the 2013 Military and

Overseas Voting Assistance Task Force.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing the reappointment of membership of the National Technical Advisory Panel on Assessment and Accountability (NTAPAA).

From Senator Alice Forgy Kerr and Representative Keith Hall, Co-Chairs of the Interim Joint Committee on Economic Development and Tourism: Memorandum requesting approval to meet on September 30 at Breaks Interstate Park, rather than the regularly scheduled meeting date of September 19. There are no apparent conflicts.

From Senator Mike Wilson and Representative Derrick Graham, Co-Chairs of the Interim Joint Committee on Education: Memorandum requesting appointment of Representative Joni Jenkins to the Subcommittee on Postsecondary Education and Representative James Kay to the Subcommittee on Elementary and Secondary Education.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum appointing James Fowler, Chief Information Officer of the Commonwealth Office of Technology, to the 2013 Military and Overseas Voting Assistance Task Force (replacing Steve Rucker).

From Senator Whitney Westerfield and Representative John Tilley, Co-Chairs of the Unified Juvenile Code Task Force: Memorandum requesting approval for additional meetings in the months of September, October, and November, as well as an additional and final meeting, outside of the interim, on December 4. There are no apparent conflicts.

From Senator Stan Humphries and Representative Terry Mills, Co-Chairs of the Capital Planning Advisory Board: Memorandum requesting approval to hold an additional meeting on September 24. There is one potential conflict.

From Senator Paul Hornback and Representative Tom McKee, Co-Chairs of the 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 Bobby Sherman: Memorandum requesting approval of the 2014 Regular Session calendar.

From Bobby Sherman: Memorandum requesting approval of prefilming deadlines for the 2014 Regular Session.

Communications

From Senator Christian McDaniel and Representative Fitz Steele, Co-Chairs, Program Review and Investigations Committee: Memorandum regarding opportunity for appointment of ex officio members for particular studies.

From the Auditor of Public Accounts: Report of the Audit of the Powell County Clerk for the year ended December 31,

2011.

From the Office of the Attorney General: Constitutional Challenge Reports for the months of April, May, and June 2013.

From the Cabinet for Economic Development, Department of Financial Incentives: Loan data sheets for each loan approved as of the quarter ending June 30, 2013.

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of June and July 2013.

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 2013; and year-to-date activity for FY 2013; and activity for accounting period 1, FY 2014.

From the Auditor of Public Accounts: Review of the Pike County School District Examination.

From the Auditor of Public Accounts: Review of the Ashland Independent School District.

From the Auditor of Public Accounts: FY 2012 Review of the expenditures of the Kentucky Health Care Improvement Fund.

From the Auditor of Public Accounts: FY 2012 Review of the expenditures of the Lung Cancer Research Fund.

From the Auditor of Public Accounts: FY 2012 Review of the expenditures of the Rural Development Fund.

From the Auditor of Public Accounts: Examination of the Metcalfe County Board of Education for the period July 1, 2012, through April 30, 2013.

From the Cabinet for Health and Family Services: FY 2012 Traumatic Brain Injury Trust Fund Program Annual Report.

From the Cabinet for Health and Family Services: SWIFT Adoption Teams Report for the first quarter of 2013.

From the Education and Workforce Development Cabinet: 2013 Second Quarter Unemployment Insurance Report.

From the Kentucky Commission on the Deaf and Hard of Hearing: Telecommunications Access Program (TAP) Annual Report FY 2012-2013.

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

From the Cabinet for Health and Family Services: FY 2012 Annual Report for the Domestic Violence Batterer Intervention Provider Program.

From the Governor's Office of Early Childhood: Bi-Annual Report of the Early Childhood Advisory Council in accordance with 2013 HB 184.

From the Cabinet for Health and Family Services, Department for Aging and Independent Living: FY 2013 Summary of Statement of Non-compliance Findings from Assisted Living Community Certification.

From the Kentucky Legislative Ethics Commission: Recommended

changes to the Legislative Code of Ethics 2013.

From the Personnel Cabinet: Personnel Cabinet Quarterly Reports as of June 30, 2013.

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activity of HealthFirst Bluegrass, Inc.

From the Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, Quarter Ending June 30, 2013.

From the Cabinet for Health and Family Services: 2013 Kentucky Stroke Encounter Quality Improvement Project Stroke Registry Data Summary.

From the Tourism, Arts and Heritage Cabinet: 1% Statewide Lodging Tax Progress Report for FY 2013.

From the Auditor of Public Accounts: Examination of Kentucky Emergency Management.

From the Auditor of Public Accounts: Review of the Fayette County School District.

From the Auditor of Public Accounts: Review of the Menifee County School District.

From the Kentucky Judicial Form Retirement System: Operating Statements of the Judicial Retirement Fund and the Legislators Retirement Fund for FY 2012-13; List of investments held by the Fund as of June 30, 2013; and Portfolio Valuations of the Fund as of June 30, 2013.

From the Auditor of Public Accounts: Special Report of Certain Policies, Procedures, Controls, and Financial Activity Regarding Medicaid Managed Care.

From the Kentucky Assistive Technology Loan Corporation: FY 2012-2013 Annual Report.

From Kentucky Employers' Mutual Insurance Authority: Quarterly Statement for the period ending June 30, 2013.

From Kentucky Employers' Mutual Insurance Authority: Statements indicating financial status for the period ending June 30, 2013.

From the Auditor of Public Accounts: Report of the Audit of the Marshall County Circuit Court Clerk for FY 2012.

From the Auditor of Public Accounts: Report of the Audit of the Floyd County Sheriff's Settlement – 2011 Gas and Oil Taxes for the period May 16, 2011, through May 15, 2012.

From the Auditor of Public Accounts: Report of the Auditor of Public Accounts Agreed-Upon Procedures Engagement of the Former Bath County Property Valuation Administrator for the Period July 1, 2012, through May 31, 2013.

From the Auditor of Public Accounts: Report of the Auditor of Public Accounts Agreed-Upon Procedures Engagement for the period July 1, 2011, through June 30, 2012, of the following Property Evaluation Administrators: Barren, Boyle, Breathitt, Christian, Elliott, Fayette, Gallatin, Henry, Hopkins, Jackson, Johnson, Kenton, Letcher, Logan, Marshall, Nelson, Wolfe,

and Washington.

From the Auditor of Public Accounts: Report of the Audit of the Sheriff's Settlement – 2011 Unmined Coal Taxes for the Period July 16, 2011, through August 15, 2012, for the following counties: Floyd, Letcher, and Perry.

From the Auditor of Public Accounts: Report of the Audit of the Sheriff's Settlement – 2011 Taxes for the period of April 16, 2011, through April 16, 2012, for the following counties: Boone, Boyle, Crittenden, Floyd, Letcher, and McCracken.

From the Auditor of Public Accounts: Report of the Audit of the following Sheriffs for the Year Ended December 31, 2011: Boone, Boyle, Crittenden, Knott, Breathitt, and Perry.

From the Auditor of Public Accounts: Report of the Audit of the following Sheriffs for the Year Ended December 31, 2012: Anderson, Boyd, Bullitt, Carter, Clark, Clay, Estill, Fleming, Harrison, Hopkins, Knott, Lawrence, McLean, Meade, Mercer, Ohio, Owen, Pendleton, Rowan, Shelby, Union, Wayne, and Webster.

From the Auditor of Public Accounts: Report of the Audit of the Anderson County Fiscal Court, for the Year Ended June 30, 2011.

From the Auditor of Public Accounts: Report of the Audit of the Fiscal Court for the Fiscal Year ended June 30, 2012, for the following counties: Bourbon, Boyle, Campbell, Christian, Clinton, Estill, Fleming, Fulton, Gallatin, Green, Hancock, Harrison, Jessamine, Knox, Larue, Logan, Magoffin, McCracken, McCreary, McLean, Montgomery, Owen, Owsley, Pendleton, Powell, Rockcastle, Simpson, Warren, Washington, Wayne, and Webster.

From the Auditor of Public Accounts: Report of the Audit of the following former County Clerks for the Year Ended December 31, 2012: Calloway, Carlisle, and Clinton.

From the Auditor of Public Accounts: Report of the Audit of the following County Clerks for the year ended December 31, 2012: Anderson, Boyd, Bullitt, Butler, Caldwell, Carter, Clay, Crittenden, Cumberland, Fleming, Fulton, Graves, Grayson, Harrison, Hart, Henry, Hickman, Hopkins, Knott, Knox, Laurel, Lawrence, Leslie, Letcher, Logan, Lyon, Marion, McCreary, McLean, Meade, Mercer, Morgan, Muhlenberg, Nelson, Ohio, Owen, Pendleton, Pike, Pulaski, Robertson, Russell, Shelby, Spencer, Todd, Union, Washington, Wayne, and Webster.

From Department of Military Affairs, Office of Adjutant General: FY 2013 Annual Report of Military Family Assistance Trust Fund Board.

From the Collaborative Center for Literacy Development: 2013 Annual Report.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the

Kentucky Department of Education for FY 2012.

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 Cabinet for Economic Development, Commission on Small Business Advocacy: 2012-2013 Annual Report.

From the Cabinet for Economic Development: Annual Report for the Kentucky Investment Capital Network for FY 2013.

From the Cabinet for Economic Development: Linked Deposit Loan Investment Program FY 2013 Annual Report.

Senator Stivers addressed to the Committee the issue that certain items have been brought to the attention of members in the past couple of weeks. He asked Director Bobby Sherman to give a status report as to whether or not any complaints have been filed related to personnel actions with him or any other members that he is aware of. Senator Stivers asked for complaints only, not the substance.

Mr. Sherman: "Obviously, there is a complaint or two complaints that have been filed and reported in the press."

Senator Stivers: "I'm talking about personnel complaints, ethics complaints related to anything in the way of sexual harassment or hostile workplace environment."

Mr. Sherman: "There are two that we are aware of. At least, we've heard of two complaints filed with the Legislative Ethics Commission. I will tell you we are aware because we have obtained a copy, but not through any official process. My understanding is the Ethics Commission, pursuant to their statutory framework, can't comment on those or even acknowledge that any complaints are in existence. We have three complaints."

Senator Stivers: "That have been filed with the LRC?"

Mr. Sherman: "Three complaints that have been lodged with our personnel office."

Senator Stivers: "Would you consider these to be personnel matters?"

Mr. Sherman: "Yes."

Senator Stivers: "The next question I have is, have there been any discussions or negotiations through any other individuals, either at your personal contact or at your direction, concerning possible litigation or threats of litigation?"

Mr. Sherman: "In terms of the scope of my answers right now—and this is going to not get into the content of investigations in any way."

Senator Stivers: "I'm not asking that it get into the content. I'm just saying, have there been discussions?"

Mr. Sherman: "Let me say this, though, first: Two of these complaints—the most publicized complaints—I want to give you, in terms of a status report; the staff worked on those complaints

in terms of investigation, and action is essentially complete. However, the status is also that notification is still necessary in regard to all parties involved in that, as to the completed stance of it, in order to get conclusion on it. So we have to be very careful in a public setting, before they are properly advised, from revealing anything much about specifics, which you haven't asked. Even the question as to potential litigation, I've got to be careful even there, because it gets into the question of 'how was that received, by whom, and in what capacity?' So while I can tell you that I have heard the possibility of litigation discussed, and I do think that is a real possibility, I need to be careful about getting into that kind of communication and how it happened, because the case itself is not concluded yet, but soon will be."

Senator Stivers: "It is my understanding that you wish to speak with the counsel of the LRC to be able to advise us as to what has taken place in conformity with the personnel policies of the LRC?"

Mr. Sherman: "Yes, and to be careful that we don't violate, as we're talking about this now, a standard that would give rise to further liability of the agency due to the current status of investigations. I need to know, as I'm talking to a couple of my staff people, there are some things that I can obviously tell you about how we do these things. I can talk to you about our investigative team. I can talk to you about the general status of the complaint, which we refer to as a couple of the major complaints. I need to talk to you about confidentiality and how that is an overriding factor in what we do in these cases and how important that is, and how that, in and of itself, affects who may know about an ongoing complaint and who may not. I know, President Stivers, you have mentioned that before, and that would be something we should talk about. Then, in terms if you need to know, or we need to know, how far do you want to get into—and we need to discuss privately, our staff, how we can fulfill that. What do you need to know about the timeline of certain investigations? I can probably give you timeline, I think. I want to talk to counsel. Which I think is a good thing, in terms of what started when, what pretty much ended when. If you get much beyond that in a public setting, so it might appear that we are trying to tell these folks, before we tell complaining folks, and if it looks like our goal here is trying to make ourselves look good when it's a serious matter, and everybody takes it as such, I want to avoid that perception that that is the intent here, because it's not. So if we're in a public setting, there are just some things we have to be careful of. If you can tell me if that kind of sounds reasonable, those kinds of discussion topics, along with a general timeline, my staff here could retire briefly and just kind of go over some of my notes here already to make sure they're appropriate. It wouldn't take long, maybe ten (10) minutes. It wouldn't involve

you all at all, so we don't have any open meetings or a problem."

Senator Stivers: "Well, I think it's going to be the position of the Chair that you meet with your staff, briefly, come back, and give us an explanation of what you feel comfortable with at the point in time. Then we will make a decision, and I may seek a Motion to go into executive session, and I may not. We would like to—because of the seriousness, the privacy, and the lack of knowledge by many members of what has occurred or taken place—we want to make sure we are not, in any way, infringing on those individuals. And our ultimate objective is to get to the truth of the matters that have been brought before us. So we will take about a ten (10) minute recess and give you an opportunity to prepare."

Mr. Sherman: "Okay, that's fine."

At that time, a ten (10) minute recess was taken.

Senator Stivers then called the Commission back to order.

Senator Stivers: "The next order of business is the issue that we have continued to talk about regarding potential litigation, potential investigations, potential complaints that have been filed on various things, and we will do this so that people can know who people are, so would you state your name and explain to the public who you are."

Mr. Sherman: "I'm Bobby Sherman. I am the Director of the Legislative Research Commission. I'll introduce the rest of my folks here. These folks are part of an investigative team we've been using. This is Laura Hendrix, our general counsel. This is Robert Jenkins, our Deputy Director for Committee and Staff Coordination. Roy, where are you? Roy Collins, our assistant Director for Human Resources."

Senator Stivers: "Why don't you bring Mr. Collins to the table."

Mr. Sherman: "By the way, Cheryl Lewis is here from Hyden, and we'll tell you about that as we get to it."

Senator Stivers: "Mr. Sherman, the Chair wants to explain kind of where my position is and my colleagues that have contacted me. We have absolutely no knowledge of the things that have been reported in the press and that were spoken of during the Special Session in the House Chamber. We understand you have concerns about this, based on press reports and things of that nature. There have been instances that have either occurred or been reported or not reported, but occurred, that culminated in the filing of complaints, but we again, have no knowledge of this.

Based on your conversations, you have some concerns about violating certain principles and policies related to individuals' privacy and what has been adopted as the policy manual related to employment for various individuals. I think, at this time, it would be appropriate for you, based on what you have before you, and that you feel comfortable with, just basically starting from the beginning."

Mr. Sherman: “Well, let’s talk about some initial thoughts, then we can get into this a little with some concerns that remain for us, and then you can tell us what else you want us to do.

You know this team here, and they’ve worked hard on this. I want you to know that I welcome—we consider you all, because it’s true, to be the ultimate employers for this agency—so we appreciate the ability and your interest in what’s going on. Just basically, and we’ll get into this a little more, in terms of the status of the complaint—and when we’re talking about complaints, let’s get a little bit clearer. I’ve got two complaints that were filed at the same time on February 19.”

Senator Stivers: “February 19 of this year?”

Mr. Sherman: “February 19 of this year. We still have to write the report and communicate with people, but the final actions were taken on August 27 of this year.

Just to reiterate, this stands as something that still is open. So we have to be very careful with, and be protective of, the rights of the parties, principals, and the witnesses.

Now, let’s go to that issue you talked about in regard to the issue of confidentiality to the extent as it’s expressed on page 35 of the personnel manual, which says, ‘all complaints and reports will be investigated promptly and thoroughly and will be treated confidentially to the extent consistent with a thorough investigation’ and open records law and supervisory structure, etc. I can’t overstate how important that is. It’s important because 1) people that use our policy rely upon it. I’ve been told by Cheryl that they may logically and reasonably expect to have a quasi contractual right to it. So, once stated, and I think this is a typical sort of confidentiality policy in a workplace harassment overall policy, but it’s something that has to mean something. We take it that way. When we open a file, an investigation, we only talk to people that have a need to know, a right to know, need to know, and of course, it says ‘confidential to the extent consistent with a thorough investigation.’ To further illustrate how important this is, it’s not like there are thousands of these claims, there are not hundreds, not ten (10) over the years. In fact, we’re dealing with complaints of non-partisan staff about non-partisan staff. We’ve got 400 employees, so things come up. People aren’t happy with each other at times, so we have to deal with it, but it’s not unheard of for a complainant to come to us that’s a little bit nervous about details that they are going to give; details against somebody else. Even though the details are against somebody else, and they want to tell us. They don’t want the details that they give to be related to them or perhaps their relatives or something like that, because it’s embarrassing to them, whether it should be embarrassing or not, but they may find it that way. They

don’t want, for example, if something that they relay to us that may be embarrassing to them, they don’t necessarily want the next door neighbor of the person they’re complaining against to be able to use open records to get it to use it against them or to make fun of them over it. So this whole issue of confidentiality, if it’s not treated right, then what you do is you stifle complainants, and they won’t come. When people come and say, ‘Well, are you going to tell everyone about this?’ Or, ‘I want to keep this confidential. I’ll tell you about it, but I don’t....’ Even then, see then we have to say, ‘Well, we’ll try to,’ but even that is consistent with a thorough investigation, but other than that part, we keep it confidential.

In most cases, nobody on the Commission is going to know anything about it. Unless it is a situation where what we try to do doesn’t work. If it doesn’t work, then we may have to come to the Speaker or President and say, ‘Look I’ve got a real problem.’ And heck, we might not even do it then if I had to call the cops and fire somebody—that kind of thing. So the confidentiality issue is a real big one.

How does it apply to this case? In this instance, and for the first time, the parties involve somebody in the General Assembly, in terms of an alleged offense against that person; and for the first time, the complainants are leadership staff. We’ve never had that before. Now, the deal is if the complainant had been a non-partisan, if [it] was two non-partisan staff against each other, or say someone saying something about a legislator, you might not have heard about it all, if it would have worked okay, particularly, if a legislator is involved. Again, for folks to think that that is a rampant thing would be absolutely wrong. If I’ve got a staff person that wants to say something about a legislator—my staff people aren’t politicians. Some of them, rightfully or wrongfully, are nervous of politicians. If something is going to immediately be communicated to them, they wonder where that information is going to go. I’m not saying that it would go anywhere, but they worry about it. So there you go. In this case, we’ve got a leadership staff person, two, that are complaining.

My deal is I don’t supervise leadership staff people. I supervise non-partisan staff people. The personnel manual itself says that is written for, and applies to, non-partisan staff. Although, certainly we welcome, and will use this to help leadership staff if that’s the way it’s going to go. So in that situation and in that case, these complainants happen to be House leadership staff folks. We’ll get, as we go into a timeline, [to] the fact that the very basic difference of why would House leadership know and Senate leadership not know, is because I don’t supervise House leadership staff. And as we’re beginning to apply a personnel policy that is in the manual that is written for non-partisan staff, we’ll certainly use with leadership staff, but we need to inform the folks that

do supervise the leadership staff people that that’s what we’re going to do, and is that what they think is appropriate to do. That is as far as I’m going to take it there, in that instance, because that’s all I need to do to keep things confidential, but I do need to get that piece of information. I can go through a little time line for you later, I think.”

Senator Stivers: “Could I interrupt you just a minute? I think it’s clear, because even we’ve had this discussion, that the staff that is hired in the Senate President’s office and Senator Palmer’s office, are through the Senate President and are considered partisan staff and under that group’s supervision?”

Mr. Sherman: “That is correct.”

Senator Stivers: “Likewise, the same is applied to the House in both staffs, and you have no authority to hire, fire or discipline those individuals, because it’s under the direct per view of the Speaker or the Senate President’s office?”

Mr. Sherman: “I’ve been associated with the Commission for thirty (30) years, and that’s the way it works. The division of staff is probably about seventy percent (70%) non-partisan, thereabouts, or maybe eighty percent (80%), and then a much smaller number of the partisan staff work for the eight (8) leaders of the Senate and the eight (8) leaders of the House. I don’t select those people. I don’t fire those people. I don’t set their salary. I don’t adjust their salary. I don’t tell them what to do. That’s not me.”

Senator Stivers: “So you’re saying the complaints you received were from the definitional partisan staff, not non-partisan staff?”

Mr. Sherman: “That is correct. We need to make sure, since I don’t supervise those people, that there is a consistency of understanding that we are going to proceed and investigate it. There was that understanding, which by the way, I think is appropriate. We have probably some experience doing that. Not like every day, but we have done it before.”

Senator Stivers: “Understanding about what? That you’re going to investigate it?”

Mr. Sherman: “That we are going to do that. I mean, if I don’t supervise people, it could be that maybe there is another plan that somebody wanted to use. If there is another supervisor of employees, and they were to say, ‘We’ll investigate it, and we’ll do it.’ They could do that. I don’t think that would be the best choice because we have done it before, but I at least need to check and make sure that we’re doing, and people know that we’re doing, what we think we ought to do. We got that understanding, and in fact, I’ll tell you this much—”

Senator Stivers: “Who is this understanding with?”

Mr. Sherman: “I’m going to tell you.”

Laura Hendrix: “I think it’s important to realize, for purposes of talking about anything that goes to the substance of

any particular complaint, as Bobby pointed out, there are confidentiality concerns. From my perspective, since I’m the general counsel for the Legislative Research Commission, this is for purposes of giving you all legal advice too. Talking about this at all in a public session may give rise to liability concerns about any of this. You all just need to realize that. Again, as Bobby has said, there may be anticipated litigation on this. I wouldn’t be doing my job if I didn’t let you know that. That’s why they have it in the Open Meetings Law that public bodies can go into closed session to discuss these things. That is completely up to you all.”

Mr. Sherman: “That’s the concern. We want you to know everything you want to know. I’m just saying that in open session, it’s a slippery slope from one question to another, and it’s dangerous. Cheryl, do you have anything you wanted to add on that?”

Cheryl Lewis: “I’m an attorney, and I’ve been practicing in employment law for twenty-six (26) years. What the concerns are, quite frankly, is that if there is an anticipation of litigation, you have work product privileges. If you have an attorney/client privilege, and if you have this in open session, you may be inadvertently waiving the attorney/client privilege as the ultimate employer. In addition, the complainants have certain rights. Not only do they have confidentiality rights, they have protection status, either as having brought this type of complaint, or they may have whistle-blower status. They may have civil rights protections. They might have a number of different protections that, by having this in open session, could give rise to them or their attorney making additional complaints. In addition, the accused in this situation also has rights. I don’t believe that he is here, and by these individuals providing information to you in open session, it could give rise to liability for LRC and to them, for things like defamation, invasion of privacy, false light kinds of claims. I know that some of you are probably lawyers, and what I’ve said, you may have already thought of. But it is my position, as a consultant for LRC—and you are the ultimate employers—that there is significant liability, not only for yourself, but for the individuals talking, as well as for the complainants sitting here today, and the accused, that would give rise to at least a motion to have this in closed session. That would be all I have, unless somebody has questions.”

Laura Hendrix: “Additionally, what we’re always concerned about is protecting staff, to the extent that retaliation, of course, is against the law. We want to protect staff, and we want to encourage them to come forward with any complaint, even if it’s not an actionable complaint, in anything, we want them to come forward. To the extent that it would chill anyone’s ability to do that or willingness to do that, to talk to us, because I think as it is now, it’s a very good process. I think I can say

that without reservation.”

Mr. Sherman: “You’re just talking about the process.”

Laura Hendrix: “About the process. So those would be my concerns.”

Senator Stivers: “Then let me suggest this, Mr. Sherman. Based on what you all have discussed with Ms. Lewis and Ms. Hendrix, go through what you feel comfortable explaining to us.”

Mr. Sherman: “Of course, we’d feel most comfortable if we didn’t go through much of it all, and if you needed to get details that you’d be in closed session, if that’s what you need. That’s the overriding notion. Some of this is not going to be much, but the timelines help, I think. I noticed you all wrote down the date that it started.

On February 19, 2013, during the session, a workplace harassment complaint was brought to Roy Collins, who is with the Director’s Office, by two individuals who are on leadership staff, okay? On that same day we thought, okay we now have a complaint, so we need to act upon it. And I know the Speaker won’t mind me mentioning his name here because he did exactly the right thing. We got with him, we met, we told him that we had two complaints, and that we thought the best thing to do was for us to go ahead and do the investigation. He agreed wholeheartedly and suggested that we do that in accordance with our policies and applicable law. I thought that was a good choice. But that was when it was necessary because the supervision of these employees comes from leadership in the House, they had to know about it, and we had to be on the same page that it was okay for us to do it. That was the appropriate choice, so we did.

Both of those things happened on the same day. Complaint is filed, that information given, so this is both on the 19th. We are immediately trying to do something.”

Representative Hoover: “I’m just concerned. We have counsel for the LRC, who’s giving us advice. We have an attorney who is well respected in this area who is giving us advice. Both of them are strongly suggesting that we, as a governing body, as a public body, go into executive session to disclose these matters, and nobody seems to be paying attention to that advice. I mean, I think we ought to listen to our attorneys. I recognize that we’re not here today to discuss the content or the validity of the complaints that have been filed alleging sexual harassment. That’s not our job. As the governing body of the Legislative Branch of government, it is our duty and it’s our responsibility to, I think, fully understand what actions were taken by our employees, specifically the Director and his staff, when those allegations were reported. It’s my opinion that having an open discussion or an open meeting on these matters, with our Director, with our attorney, and with other staff members would have a chilling effect on their ability to fully explain their

actions. It would have a chilling effect on our ability to ask the questions that need to be asked and answered by us as the ultimate employer of them. Therefore, I’m going to follow the advice of these attorneys that we have hired, and I move, Mr. President, pursuant to KRS 61.810(c) (f), which talks about personnel matters and the threat or pending litigation, I move pursuant to those statutes that the LRC go into executive or closed session.”

Senator Stivers: “We have motion by Representative Hoover, do we have any discussion concerning the Motion? Mr. Speaker?”

Representative Stumbo: “Point of order, Mr. Speaker. Representative Hoover cites two exceptions to the open meetings law, and having been a former Attorney General, and having dealt with these matters, literally on a daily basis, I’m quite familiar with the exceptions. We took the position in that office that unless a meeting fell specifically under the exceptions, that the meeting should be open. Now, the first question that one has to ask, and it’s been alluded to here today, but I’ve not heard anybody tell me that there is a substantial threat of litigation to the LRC, that there is a direct suggestion of litigation, condition on the occurrence or non-occurrence of a specific event. That’s what the Carter v. Smith case says, and as far as the personnel matters go, quoting from the statute that Representative Hoover spoke of, as far as relying upon forgoing into special session, it says ‘hearings which might lead to the appointment, discipline or dismissal of an individual employee.’ I haven’t heard any testimony here that leads me to believe that either one of those exceptions clearly fall within what’s been talked about here today. So I can’t support going into a closed meeting. I believe the public has a right to know these things. I understand the confidentiality concerns Mr. Director, and I appreciate that. You’re exactly right on that point, but I think you can discuss the policy and the procedures that were followed or are being followed without being alluded—we’re not here to determine, as far as I know, if the allegations are true or correct. There are other bodies that are examining those and will examine those allegations and take testimony and move forward on those particular issues. We’re not prepared to do that today. We’re not here to do that today. We are simply here 1) to make sure that our employees are protected, and to make sure that the policies that we have, I think, are sound in the event that these type of allegations would come forward again. I know I understood what you said that it was a first time allegation involving a legislator and an LRC leadership staff employee. So I think that’s good. The public knows that. There’s been some speculation in the press as being more rampant than that, and I appreciate your comment to the extent that, obviously, that’s not true. But, talking about things that you don’t have any knowledge about or facts about in this town are pretty

common. I appreciate your relying upon the facts. We, as politicians, often get in these political battles. When you’re talking about due process of law, and you’re talking about the rights of people, I agree with you, counsel. We have to be very specific and very careful, and that’s why I don’t want us to go into a meeting, which I’m not saying it’s not well-intended. I’m not saying, gentleman from Russell, that the advice is not well-intended. I’m simply saying that I believe the public has a right to know. I believe that this committee has a right to know as much as you can share, given the allegations that have been made. I certainly want to make sure that that happens, but I don’t want to be accused of doing something which might be perceived as being violative of the open meetings law.”

Senator Stivers then acknowledged Representative Hoover.

Representative Hoover: “Thank you Mr. President. I’ll just respond very briefly. I think we all recognize, and it’s been reported in the press, that litigation will be forthcoming, and is being contemplated and discussed as we speak. We know that the complainants are here. They are here with their attorney, who’s spoken on their behalf in the press, in the past few weeks. So, to argue that there is not litigation proposed or being discussed, which is what the Open Records exceptions require, is just not true. It’s interesting to me that the my good friend, the Speaker, would say that there needs to be an open meeting, when just three days ago his position was there didn’t need to be a meeting at all. I just think we ought to follow the advice of our attorneys since it does involve personnel, and it does involve what I think we all recognize as potential or proposed litigation, and that we should go into executive session.”

Representative Stumbo asked to respond.

Representative Stumbo: “Representative Hoover, I haven’t heard any testimony, and perhaps you know more than I do, about any alleged litigation involving the Legislative Research Commission. I’ve not seen the LRC’s name mentioned as doing something that was violative of anybody’s rights that would lead to litigation. Nobody’s told me that. If someone has told you that, maybe you need to share that with us.”

Representative Hoover: “Mr. Speaker, if I may Mr. President, I’m just responding to the—”

Senator Stivers: “Let’s kind of keep some order, Representative Hoover.”

Representative Hoover: “I just want to respond that the thing I was basing my statement on is the Speaker was quoted in the paper as saying he was not in favor, after he initially said he was in favor, of an LRC meeting. That he was not in favor of an LRC meeting, because to do so would subject the LRC and the members of the LRC to potential liability and a lawsuit. That’s what I was basing it on, and he was quoted in the press as saying that.”

Representative Stumbo asked to respond.

Representative Stumbo: “Being misquoted in the press—”

Senator Stivers: “Mr. Speaker, we’re going to back through the chair in appropriate decorum, and I’ll recognize people as it becomes appropriate, but I think here is what we have discussed. I think Mr. Sherman can explain to us certain procedures and protocols of what have taken place without being something that would violate anybody’s due process, privacy rights, anything of that nature, which would not subject us to further litigation. Upon completion of that, then I think it will be the Chair’s position that we will then discuss whether we need to go in to an executive session because of what counsel has said related to the privacy issues and potential liability. I think he feels comfortable to a certain extent, and at that extent then we’ll make the decision or entertain the Motion that you have Representative Hoover, to go into an executive session. Mr. Sherman, proceed.”

Mr. Sherman: “Okay, the next day after complaints were filed, we move to February 20. Interviews are conducted with the complainants. From February 20 to February 27, 2013, interviews are conducted with relevant witnesses. On February 27, 2013, we interview the accused individual. The next day, February 28, we have by this time, arrived at findings, and the findings are passed along to the accused individual. The same day we pass along our findings to the complainants. March 1, 2013, through August 27, 2013, there is periodic monitoring of the situation.

On or about May 24, consideration is given and eventually to LRC’s, meaning my, employment of an outside counsel, who has an expertise in employment law, just to give us a second set of eyes, and if possible, mediate and facilitate the situation. So that was done, and Cheryl Lewis is hired by me. Her actual hire date is June 11, 2013.

Let’s go back, I’m sorry that is confusing. Somewhere around the end of May, we began to think that it might be beneficial for us to be educated, for one thing. Are we missing something? What could we do better? That sort of thing. So Cheryl Lewis is hired.

Between June 11, 2013, and September 9, 2013, Cheryl reviews staff process. I’m sorry, June 11 and July 9, is that right? Cheryl engages in certain things. Cheryl, would you want to review what you were doing there?”

Senator Hoover then asked Cheryl for process only.

Ms. Lewis: “I understand. I was first contacted toward the last week of May 2013. At that time, I talked with Roy Collins in very general terms about the situation that LRC was dealing with regard to two employees. He and I had a brief conversation. On June 7, I came to Frankfort. On that day, I interviewed Roy

Collins and Bobby Sherman. I spoke with Laura Hendrix, and I interviewed Robert Jenkins.

From that point, I then asked for the file. I reviewed the file at length, as you would have expected me to do. There was a determination made that I would interview the complainants. The initial meeting with the complainants was set for July 2, when I had a dental emergency and had to move it back a week. So, on July 9, I came to Frankfort. At that time, I was supposed to interview one complainant at 1:00 and one complainant at 1:45, by myself, with them in an effort to provide a fresh set of eyes to look at what LRC staff had done and to indicate whether the job had been done properly or whether there were other things that needed to happen, and if possible, to mediate or to facilitate a resolution to this issue. There are other things that I could tell you that I am not comfortable in doing in an open session.”

Mr. Sherman: “I agree. I don’t want you to.”

Ms. Lewis: “I went ahead and conducted the interviews because that was part of my job, and everyone agreed that that should go forward. After I finished with the interviews with them, there have been several communications that have taken place since that time, both with regard to the LRC staff that’s in front of you and with regard to the attorney for the complainants. I don’t believe that that is appropriate for me to discuss in open session because it would involve the waiver of the attorney/client privilege, and Mr. President, I don’t believe you all have done that. So that it is where I have been involved. I do have thoughts and conclusions that I can share with this body.”

Mr. Sherman: “I’m going to mention this because don’t want to leave anything out or make it look like anything is slanted. On July 9, which is the same time Cheryl had her meeting she just described, there was an additional allegation concerning a sort of behavior that we then investigated. We did that on July 11, and we made a finding on that and applied an action in regard to that. I just didn’t want leave it out since we talked about the original things.”

Senator Stine: “The action was applied on the 11th, is that what you’re saying?”

Mr. Sherman: “We had a finding, the action was applied and continued to be applied. You’re beginning to do something. I don’t want to get into that right now. In other words, we investigated, made a finding, and made those findings known.

I can understand your question, Senator Stine, about action. What is that? The thing is, though, if I talk about that any more, it then relates back to ‘Well, what was your finding?’ If I talk about that, then ‘What was the complaint?’ It shows outcome, and I think in this setting we have to be very careful about outcome. So I know it’s treading lightly, and I know

you’ve got a lot of blanks, but in this setting I think this all we can do.

Anyway, things were done and actions were taken. Like I say, there is contact with the person complained against on August 26, which was Monday of last week, and there was action taken on August 27. Not action, but a communication, which actually was an email communication with complainants on August 27, just advising them of the status where we are. What, if anything, is the person accused of supposed to do. Again, I’m not trying to argue whether it’s a good idea to be in closed session or not closed session, and so that’s up to you all and the law involved, but if we were in closed session, I could give you more detail than that. I don’t know that you want more detail or you do. I don’t know, but I could if I were in closed session.”

Senator Stivers: “Does that complete what you feel you can tell us in this forum and setting?”

Mr. Sherman: “Yes.”

Senator Stivers: “Let me ask a question of the whole group, including Ms. Lewis. Have there been conversations with any of the counsel for the parties that have suggested that litigation would be filed, or have there been any discussions about potential negotiations on settlements?”

Ms. Lewis: “Yes.”

Senator Stivers: “Yes to both?”

Ms. Lewis: “Yes to all.”

Senator Stivers: “Ms. Lewis, I’ll specifically ask this of you? Who directed you or who contracted with you to be employed in this situation?”

Ms. Lewis: “My contact has been with the individuals that are sitting at the table with you. So I was first contacted by Roy Collins. Then I had conversations with Roy and Mr. Sherman.”

Senator Stivers: “Okay. And your background has been many years of practice in personnel law?”

Ms. Lewis: “I probably should have done that from the get go. I’ll be glad to describe my background. I don’t like doing this because to me it seems like there is some sort of bragging about yourself, but I will describe for all of you my background.

I’m from Leslie County, Kentucky, and I graduated from high school in Leslie County in 1980. I went to Centre College, and I graduated there in 1984. I graduated from the University of Kentucky, College of Law in 1987. And I graduated number one in my class, which only gives me the ability to tell you all that or other potential individuals. I don’t know that it did anything to prepare me for the practice of law, but in 1987 I was number one in my class. From there, I went to the United States Court of Appeals for the 6th Circuit. I clerked for one (1) year with a judge up there. At that point, I came back to Lexington, and I worked with Stites and Harbison from 1988 to 2003. I moved back to Leslie County in 1998, and I’ve been there in practice up

through the current date. I’ve been on my own as a solo practitioner from 2003 to 2013. I’ve practiced law almost twenty-six (26) years. Twenty-four (24) years of that has been in the employment law area. Kentucky doesn’t certify specialties, so I almost feel like I should say, this is not an advertisement, but I have been practicing employment law for almost twenty-four (24) years. I’ve spoken to the Kentucky Bar Association, the League of Cities, Kentucky Chamber of Commerce and UK CLE. I can even talk a little bit of basketball and football with you, but I am a long-time practitioner in employment law. That’s my background. Mr. President, I have gone from basically one hundred percent (100%) of defendant work to ninety percent (90%) of plaintiff work, ten percent (10%) of my work is consulting and defense work, so I have a very widespread background. I’d be glad to answer any questions about that.”

Senator Stivers: “I have one other question. Based on what you’ve read and your experience, and that which you’ve seen in the employment manuals, do you feel this is an item or matter that is related to the employment and employment status of individuals within the LRC?”

Ms. Lewis: “What I’m telling you is that this is a matter that involves personnel issues of employees within the LRC. That is what it was brought to me for was a potential issue between or complaint between two employees of the LRC, that they had an issue with a legislator. That’s what the issue is. It is my advice, as it has been, with response to the question you asked a moment ago, is that there is a potential threat for litigation, as seen by the withdrawal of the Human Rights Commission Complaints by the attorney representing the complainants.”

Senator Stivers: “Mr. Sherman, I have one question. Who instructed you to hire Ms. Lewis?”

Mr. Sherman: “No one. I decided to hire her.”

Senator Stivers: “We have a couple of questions. Senator Thayer?”

Senator Thayer: “Thank you, Mr. Chairman. Director Sherman, you said yourself you do not supervise partisan leadership staff. You don’t hire them. You don’t fire them. You don’t set their salary or adjust their salary.”

Mr. Sherman: “That’s correct.”

Senator Thayer: “Why then are you responsible for leading an investigation regarding staff that you have, essentially, no control over?”

Mr. Sherman: “Well—”

Senator Thayer: “Why wouldn’t that fall to the supervisors of the complainants in this situation?”

Mr. Sherman: “The organizational structure and practice of the Legislative Research Commission and General Assembly is different. It’s hard for folks to understand sometimes. You’ve got the General Assembly, you’ve got LRC. LRC means different things to different people. Some people think LRC is the

staff. Some people think—or know—that what it is is what you all are. People use those terms interchangeably, and actually, in some ways the reality is even confusing, because it is the case that every single employee in this agency, including leadership staff, does work for LRC. The LRC budget, in fact, all the money appropriated to the General Assembly, actually is appropriated to LRC. So even though a leadership staff person like Chris Lilly might be a leadership staff, and I might be non-partisan staff, the fact is that we’re both LRC employees.”

Senator Thayer: “As are technically legislators.”

Mr. Sherman: “Yeah, that’s a little iffier. You can make that case.”

Senator Thayer: “I just think while we’re in open session this is an important distinction or explanation.”

Mr. Sherman: “You bet.”

Senator Thayer: “It is a bit confusing.”

Mr. Sherman: “It is confusing, and I know you all don’t care about this, but I’ve worked for LRC since 1978, and my parents died about twenty (20) years later. The whole time I worked there they never understood what I did, ever. I could explain it to them over and over, but the place confuses them in terms of the way it’s set up. Having said that, we’re all LRC employees. It is true that I don’t supervise leadership staff, but the thing is, we think we know how to do it, and the thing is we have a policy. I’m not trying to brag either, like Cheryl, but—“

Senator Thayer: “This is Frankfort.”

Mr. Sherman: “Brag away, yeah. We’re not partisan staff, so we don’t do that very much. I am not familiar with, in terms of investigations we’ve done over the past while I’ve been here, that a bad result has occurred. So we have some expertise in doing it, and they were all LRC employees. So the thing is we don’t mind doing it, we think it’s the right choice to do it because we think a good result can occur.”

Ms. Hendrix: “We were requested to do it.”

Mr. Sherman: “Requested to do it. I guess that’s all I have to say about that.”

Senator Thayer: “Can I have a follow-up, please, Mr. President?”

Senator Stivers advised Senator Thayer to proceed.

Senator Thayer: “Thank you, Director Sherman. I felt strongly that that explanation was necessary for the public, so thank you for making it. The next question I have relates to the consulting contract for Ms. Lewis, who by all accounts is an extremely qualified and capable attorney. The question is simple. Did you consult with the LRC or leadership regarding her consulting contract?”

Mr. Sherman: “No, I did not. She does not have a consulting contract. She is, in fact, an LRC employee, as this point.”

Senator Thayer: “So to clarify for the record, she is not a consultant?”

Mr. Sherman: “She is an employee

that consults for us. In other words, she tells us things like, Senator Thayer, there is a chance that as an LRC employee, there might be times during the session that I consult with you in regard to issues. She is not on contract. She is a part-time, non-benefited, what we call under a hundred (100) hours a month employee.”

Senator Thayer: “No pension, no benefits?”

Mr. Sherman: “No pension, no benefits, One hundred twenty-five dollars (\$125) an hour, no expenses, which is different, by the way, from a contract employee. Whatever the rate is, the fact that it’s a non-expense is a little bit cheaper than a contractual situation.”

Senator Thayer: “The other part of my question, if you will, please. Did you consult with the LRC?”

Mr. Sherman: “I said that going in. No, I did not. I have authority to make hires in that category. I, for example, during regular session, I probably hire twenty (20) folks that are part-time, under a hundred (100) employees or part-time seasonal employees at an hourly rate, with no benefits. If you consider all the employees and whether you all want me to continue to have that authority or not, right now I’m hiring people occasionally, lots of times, and I don’t inform any of you. If you want to be informed, we can announce it, and that sort of thing, but that’s never been something we do.”

Senator Thayer: “Follow-up, Mr. President?”

Senator Stivers director Senator Thayer to proceed.

Senator Thayer: “Thank you, Mr. Chairman. There are sixteen (16) members of the Legislative Research Commission made up of the various leadership bodies in the House and the Senate. Did you consult or inform with any one member of the LRC regarding Ms. Lewis’ employment with the agency?”

Mr. Sherman: “Well, I came to a decision that this would be a good idea to have this kind of help. Again, I’m going to have to be careful here. Why did I decide I wanted it? Well, because a couple of events occurred that, unless we’re in closed session, I don’t want to talk about that.”

Senator Thayer: “I didn’t ask that.”

Mr. Sherman: “Yeah, but it gets to it. It gets to the question. Just in the process of talking to staff, I talked with a member of the Speaker’s staff, and he had experienced a similar, but different issue, and just in the terms of professional talk, I believe that and came to the conclusion that this would be a good idea. It’s my decision. This is a useful thing for my investigation.”

Senator Thayer: “Did you or did you not consult or inform a member of House leadership regarding Ms. Lewis’ employment?”

Mr. Sherman: “No.”

Senator Thayer: “Til when?”

Mr. Sherman: “Okay, the question is House leadership, is that right?”

Senator Thayer: “Correct.”

Mr. Sherman: “No.”

Senator Thayer: “You said you did at some point.”

Mr. Sherman: “Okay, we’re going to get into this a little bit now.”

Senator Thayer: “It’s just a date; all we need is a date on the calendar.”

Mr. Sherman: “I know, but the thing is that I don’t have a date. It gets into having to explain why certain things happened at a certain time.”

Senator Stivers: “Let me just do this. You did have some discussion at some point in time with somebody in House leadership.”

Mr. Sherman: “Not with a legislator, but the thing is, that in terms of undertaking this deal, and I think I can say this, because the House leadership are the ones who supervise these individuals, they were interested in, at least on one event, an update as to the status of it, which makes sense, because even though we are doing it, a status update makes sense. At that time, if you are giving an update, you can talk about various things that happened that might make it a conversational thing that I think, yeah, I’m going to hire Ms. Lewis. Again, it isn’t something that was any kind of demand or anything else.

Senator Thayer: “I have one more question, Mr. Chairman. I’m not questioning your authority to hire Ms. Lewis. I’m just trying to get at who knew what, when. Did you inform a member of House leadership staff about Ms. Lewis’ employment with the agency, and if so, when?”

Mr. Sherman: “I guess yes, and it was on or about June 11, after that had been accomplished or getting ready to be accomplished, but I don’t recall.”

Senator Thayer: “June 11.”

Mr. Sherman: “June 11 is the hire date.”

Senator Thayer: “And you informed a member of House leadership staff?”

Mr. Sherman: “Yes. It wasn’t like, okay now that we’ve done this I’m informing you. So that wasn’t a prerequisite or a natural reaction.”

Senator Thayer: “I’m not saying it was a prerequisite.”

Mr. Sherman: “What I’m saying is, after it happens and after the hiring occurs, because I want it to occur, and need to have it, then it’s a thing. If I’m talking to someone that has a right or need to know, I will say it’s a thing.”

Senator Thayer: “So we can assume that on June 11, House leadership staff and very likely by extension, House leadership, was informed that Ms. Lewis had been hired by the agency to investigate?”

Mr. Sherman: “I cannot assume that it was on the 11th. I can’t assume it was an exact day. It was probably on or around that time that I did have a conversation with a member of House leadership, which would have, as we’re talking about what’s going on with the case, would have acknowledged that Ms. Lewis was on board. Now, in terms of who was told after

that, I don’t have any idea.”

Senator Thayer: “I have no further questions at this time, Mr. Chairman.”

Senator Stivers then recognized Representative Hoover.

Representative Hoover: “Thank you, Mr. Chairman. Just a couple of questions. Director Sherman, why did you wait four (4) months to hire outside counsel?”

Mr. Sherman: “Representative Hoover, if I’m in closed session, I can answer Senator Thayer’s questions pretty precisely, and I can answer that question too, but I don’t feel comfortable in terms of what I can say.”

Representative Hoover: “I respect that. Thank you very much. One final question, Mr. Chairman?”

Senator Stivers recognized Representative Hoover.

Representative Hoover: “You noted on February 28 that your findings of your investigation were passed along to the accused and to the complainants. That was your statement earlier.”

Mr. Sherman: “That is correct.”

Representative Hoover: “Were those findings also passed along to any member of House leadership and why not, if you had consulted them initially, would you not pass along the findings to them?”

Mr. Sherman: “We have been told that they’re awaiting conclusion of this. I have told you that we are very close to that, but not technically there, because of advising the parties. So my understanding from the staff of the Speaker’s office is that they await a conclusion and final notification when we’re done. Again, if we’re in closed session, you’d get a better timeline with a lot more stuff in it. I understand this situation, too.”

Representative Hoover: “May I proceed, Mr. Chairman? Is it correct then, to say that you initially met with the Speaker on February 19 to discuss the complaint that had been received that same day? You felt it appropriate to discuss with him the complaint, but yet when these findings were passed along on February 28 to the accused and the complainant, and you’re telling us that you never passed along those findings to anyone in House leadership?”

Mr. Sherman: “There was an update that Roy Collins gave to House leadership staff based upon a need that they had. Again, I can’t talk about, because we’re in this situation. Toward the end of February, there was an update given for a specific reason. Then, the further instructions suggested to us that they await information as to conclusion.”

Representative Hoover: “Would that have been on or around February 28, the same day you passed along your findings to the complainants and the accused?”

Mr. Sherman: “No, I don’t think that is right. Bear with us just a second, all right? Actually, there were a couple of instances, now that we think about it. All right, rather than drag this out again—if we were going through the file, it would be more clear, but in certain of the actions

that Senator Stine was asking about, which would mean what in result to our findings, okay? Without getting into them—what kind of things would you do in terms of the environment and that sort of thing. Well, there were a couple of updates and communications with the Speaker’s office and leadership offices in order to effectuate those things. You have to do that in order to make it work. If I were listening to this, and I’m sure it’s true, I wouldn’t have any idea what I’m talking about because it doesn’t make hardly any sense to me.

There was in an incident in May that was based upon something else, not an incident, but in early May, as a reaction to something else happening from the outside. Roy Collins updated two of the Speaker’s staff in regard to where we stand now. That’s a different kind of update, but that’s an update. It was an update, and after that we were advised in that folks would await conclusion of the investigation and be notified as such.

These communications are when needed and for different reasons and without knowing any of the underlying stuff, it’s hard to explain it to you.”

President Stivers recognized Senator Stine.

Senator Stine: “Thank you, Mr. Chairman. I’m just trying to follow the timeline, and I know you can’t always believe everything you read in the paper, but I did see the Courier-Journal’s account, and it said ‘one of the three women alleges her problems with Mr. Arnold began as early as 2008 or 2009.’ Were you aware of any sorts of allegations of sexual harassment prior to this date that you mention of February 19, 2013?”

Ms. Hendrix: “You know, that gets into the substance.”

Mr. Sherman: “It does. All I can tell you is they came to us on the 19th. In terms of what their allegations are, they could be different dates, and I’m not going to get into those right now.”

Senator Stine: “I also see a timeline that was distributed by Brian Wilkerson, indicating that on Thursday, April 14, 2011, the Speaker’s general counsel directs the LRC Director any violations of harassment policy be resolved. That date is prior to this February 19, if I’m not mistaken. How is that related?”

Mr. Sherman: “Could you read it to me again?”

Senator Stine: “There was an email distributed by Brian Wilkerson, who is a communications director for the House. It says, ‘Timeline of Speaker’s actions in establishing effective harassment procedures. Thursday, April 14, 2011. Speaker’s general counsel directs LRC Director that any violation of harassment policy be resolved in accordance with American Bar Association’ and goes on and sets out standards.”

Mr. Sherman: “So your question is, what does that refer to?”

Senator Stine: “It goes on into May. Is that related to this, or was it just

serendipitous?”

Mr. Sherman: “The Bar standards are one thing in terms of the investigation referred to. It’s not related to this.”

Representative Stumbo: “I think the gist of her question may be that, does this relate to the complaints that were filed, particularly the one that goes back a couple or three (3) years, and that answer is no. Our meeting in August was really, as I recall it, was just to talk about procedures and talk about updating the policies and making sure we had an effective policy in place. It didn’t relate to these issues, these complaints.”

Senator Stine: “So, regarding the ’08-09 allegations, you had not heard anything about that?”

Mr. Sherman: “’08-09? Of these complainants? Again, that’s part of the investigation. We heard from them on February 19, and they could have had allegations involving different times of things, but I’m not going to get into that.”

Senator Stivers acknowledged Senator Smith.

Senator Smith: “I’m not an attorney, and I’m actually really proud of that right now. It seems like this thing keeps folding over top of itself. You’re exactly right, Bobby. It’s hard, I can imagine trying to answer questions and the wake keeps folding over top of itself and tip toeing around.”

Mr. Sherman: “I have to leave holes out.”

Senator Smith: “It’s frustrating. I came in here today, and I have a list of questions I know I can’t ask because they apparently can’t be answered. There are people here who have had something happen to them, significantly. Obviously, that’s a lot to carry. It affects them and it affects their family and it affects every one of us, and it challenges the credibility of this institution. Yet, we sit here today and we’ve got all these questions that we want to have answered, and we can’t answer them because in doing so, it obviously creates some other legal liability or something like that. I think it does a disservice to these women for us to skirt around them. I’ve got questions here today that I’m not leaving until we get answered. I don’t care if we’re here until midnight. I think they deserve that. I think the people in my district deserve to know what’s going on down here. I can tell you that you can walk through any place, any barber shop, and they’re all going to be wondering what we’re doing down here. This story of this rampant abuse and stuff like that, and that’s not true. We’ve got some hours here, and we’ve got some tough work cut out ahead of us that we can get done today. I can get my questions answered. I don’t know why we’re not going into executive session. I don’t know if there’s a strategy about keeping the lid on this thing or whatever. Look, if there are ways we can get this thing answered and that’s what we have to do in order to get it done, I’m okay with that, but I’m not okay with us spending the next two hours asking

you questions you can’t answer, knowing there’s information out there that each and every one of us would like to know about. Yet, there’s some sort of gamesmanship at foot that nobody gave me the memo on, and I think it’s foolish. I think it’s disrespectful. So I’d like to say, let’s have a break if we could, Mr. Chairman, and let us get our heads together and see what we can do to answer these questions, because it’s foolish for us to sit in here and play this charade about asking questions and you not being able to answer them. It’s not fair to you, it’s certainly not fair to us, and it’s not fair to all the parties involved, either the accused or the people who have something perpetrated against them.

So, I would like to make the Motion that we take a ten (10) minute break and let’s get our heads together and let’s get our work done. That’s my motion.”

Senator Stivers: “There was a prior Motion made that is still on and there is discussion. We now have a second motion for a recess. I know the Speaker and I may have a little bit different opinion. He’s practiced a little longer than I have. He’s been the Attorney General. I can say I’ve been the Judiciary Chair for ten (10) years, but I do believe there has been, based on Ms. Lewis and what other counsel has said, an issue of policy related to personnel and potential litigation. Representative Hoover had made a Motion to go into executive session, and there was not a second on that. That Motion is still on the table. Is there a second to go into executive session?”

Asecond was made by Representative Carney. There being no discussion, a roll call vote was taken.

At this time, Representative Overly asked to explain her vote.

Representative Overly: “I understand from the testimony of Ms. Lewis that she believes that there may be pending litigation. However, having said that, my reading of the Carter vs. Smith decision and the specific requirement that there must be a direct suggestion of litigation conditioned on the occurrence or non-occurrence of a specific event, concerns me that perhaps that that statement does not meet the standard outline in Carter vs. Smith. It is not my intention to prevent a discussion between this body and the LRC on these issues. However, I do think we are required to follow the law, and specifically the letter of the law that the state Supreme Court outlined as recently as May 24, 2012. So, for that reason, I vote no.”

At this time, Senator Stivers asked to explain his vote.

Senator Stivers: “I will vote yes, and I do believe there is, because there has been discussions and conveyances to respective parties about settlement and litigation. Plus, personnel issues that have been set out to us by counsel that has been hired by the LRC and retained on an outside basis for this. I believe that is 10 (ten) votes.”

At this time, Speaker Stumbo asked to explain his vote.

Speaker Stumbo: “I’m going to vote no for the same reasons that Representative Overly addressed. The way that the Director has proceeded, as he’s explained, is designed to protect the employees. That’s what he was supposed to do. It is an ongoing investigation, as I understand it. As I understand it, there are no formal demands to be made for settlement that we would consider. Is that correct Ms. Lewis? You don’t have a formal demand that you wish to discuss?”

Ms. Lewis: “I do not.”

Speaker Stumbo: “Therefore, I do not believe that it meets the standard required for a closed session under the open meetings law. So, Mr. President, I will have to vote no.”

The motion passed 10-5.

Senator Stivers then asked for a recess and that the closed session be recorded, as requested by the Representative Stumbo, so there would be no concerns.

Senator Stivers made a motion that the tape be held until released by Court order or upon release or directed by the LRC.

Speaker Stumbo indicated he had no problem with that, but that he would not be participating in a meeting he considered to be illegal.

At that time a ten (10) minute recess was taken.

At 12:00 p.m. the Legislative Research Commission went into executive session.

At 4:10 p.m., LRC went back into open session, and President Stivers advised that no action was taken during the executive session.

Adjournment

There being no further business, the meeting was thereby adjourned at 4:14 p.m.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 3rd Meeting of the 2013 Interim August 22, 2013

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Agriculture was held on Thursday, August 22, 2013, at 10:00 AM, in the VIP Room, Kentucky State Fair, Louisville, Kentucky. Representative Tom McKee, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Tom McKee, Co-Chair; Senators David P. Givens, Sara Beth Gregory, Stan Humphries, Dennis Parrett, Dorsey Ridley, Kathy W. Stein, Damon Thayer, and Robin L. Webb; Representatives Lynn Bechler, Mike Denham, C.B. Embry Jr., Derrick Graham, Richard Heath, James Kay, Kim King, Martha Jane King, Michael Meredith, Terry Mills, David Osborne, Ryan Quarles, Tom Riner, Bart Rowland, Steven Rudy, Jonathan Shell, Rita Smart, and Wilson Stone.

Guests: Members of the Kentucky

State Fair Board; Louisville Mayor, Greg Fischer; House Speaker Greg Stumbo; House Minority Whip John Carney; Roger Thomas, Governor’s Office of Agricultural Policy; John McCauley, USDA-FSA; and Jenna Day, Miss Kentucky.

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

The July 10, 2013 minutes, were approved as amended, upon motion made by Representative Stone and seconded by Representative Graham.

Opening Remarks

Louisville Mayor Greg Fischer welcomed the committee to Louisville and discussed the business of locally grown products being introduced into institutions such as Jefferson County Public Schools and hospitals. He discussed the importance of the Bourbon Trail influencing the economy through tourists.

Report of the Kentucky State Fair Board

President and CEO, Clifford “Rip” Rippetoe, Kentucky State Fair and Exposition Center, discussed the fairgrounds and the operations of the Kentucky State Fair. He said that several people from other states had visited the fairgrounds in trying to find ways to improve their own state fairs. There are several state fairs that are financially struggling. The Expo Center is the 6th largest in the United States and the largest indoor state fair facility.

Mr. Rippetoe said that one of the missions of the State Fair Board is to entice more trade shows to the facilities. Customer service and parking are important improvements to the environment of the fair this year. He said that Cardinal Stadium is in disrepair and the building is unsafe. Arrangements were made for temporary outside housing of 500 show horses along with mules and jacks. It would be very costly to demolish the stadium because of the underground utilities beneath the stadium floor. The board has directed master plan study for fairgrounds improvements. Kentucky Kingdom is scheduled to open in May 2014, which will provide a positive vibe and another source of income.

Mr. Rippetoe said that he had traveled to several counties visiting with people at county fairs, and had also attended Farm Bureau meetings. It is important to know the people of the Commonwealth and their issues.

Mr. Rippetoe stated that, between the Convention Center and the State Fair, over 2.5 million tourists visit the facilities. The economic impact of those tourists is approximately \$33 million.

In response to Senator Webb, Mr. Rippetoe said that he did not know when the feasibility plan for the stadium would be final because the board is still working on a request for proposals.

In response to Representative Graham, Mr. Rippetoe said that the board requested architects and building inspectors to look at the safety concerns

of fair attendees sitting on the field rather than in the stands. It was determined that placing chairs on the field was within safety codes.

The meeting adjourned at 11:45 p.m.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 4th Meeting of the 2013 Interim

September 6, 2013

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Agriculture was held on Friday, September 6, 2013, at 9:00 AM, at the E.S. Good Barn, University of Kentucky, Lexington, Kentucky. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Tom McKee, Co-Chair; Senators Carroll Gibson, David P. Givens, Stan Humphries, Kathy W. Stein, Damon Thayer, and Robin L. Webb; Representatives Lynn Bechler, Mike Denham, C.B. Embry Jr., Jim Glenn, Derrick Graham, Richard Heath, Richard Henderson, James Kay, Kim King, Martha Jane King, Michael Meredith, Terry Mills, David Osborne, Sannie Overly, Ryan Quarles, Tom Riner, Bart Rowland, Jonathan Shell, John Short, Rita Smart, Wilson Stone, Tommy Turner, and Susan Westrom.

Guests: Drew Graham, Assistant Dean, UK College of Agriculture, Food and Environmental Sciences; Scott Smith, Dean, UK College of Agriculture, Food and Environmental Sciences; Nancy Cox, Associate Dean for Research, Director of Ag. Experiment Station, College of Agriculture, Food and Environmental Sciences; Will Snell, Professor, Agriculture Economics, College of Agriculture, Food and Environmental Sciences; Stephen McMurry, Fertilizer Regulatory Program Coordinator, College of Agriculture, Food and Environmental Sciences; former Dean of the College of Agriculture, Dr. Oran Little; Clifford “Rip” Rippetoe, President and CEO, Kentucky State Fair Exposition Center, and Representative Tanya Pullin.

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

The August 22, 2013 minutes were approved by voice vote without objection upon motion made by Representative Bechler and second by Senator Thayer.

Opening Remarks and Update on Hiring of New Dean of UK College of Agriculture

Drew Graham, Assistant Dean of the College of Agriculture, Food and Environmental Sciences, welcomed committee members and introduced Dr. Scott Smith, Dean of the College of Agriculture, Food and Environmental Sciences. Dr. Smith stated that committee had yet to announce the selection of the new Dean of the College of Agriculture, Food and Environmental Sciences. Dr. Smith stated that the College continues to

grow with nutrition and pre-veterinarian programs having the largest enrollments. The Extension Service is still strong with only 15 vacant positions open. Last year, the number was as high as 30 vacancies. He attributed the low number of vacancies to the support of the local communities and grant funding. Dr. Smith stated that 4-H programs across the state were growing – approximately 600 youth participated in the ham producing program. Dr. Smith stated that the new name for the College of Agriculture would now be the “University of Kentucky, College of Agriculture, Food and Environmental Sciences.”

In response to Representative Smart, Dr. Smith said that, based upon consumer research, the College has a new food systems innovation center and is encouraging more training on food safety and nutrition education.

In response to Senator Gibson, Dr. Scott said that the University provides approximately \$600,000 in scholarships to help one in three students in the College. The Administration is aggressive in pursuing grants.

Clifford “Rip” Rippetoe, President and CEO, Kentucky State Fair Exposition Center, said that the Kentucky State Fair was a success this year. The Fair Board is waiting on the final numbers but is encouraged by the number of people who attended all the events.

UK’s Equine Science and Management Program

Dr. Nancy Cox, Associate Dean for Research, Director of Agriculture Experiment Station, College of Agriculture, Food and Environmental Sciences stated that research showed that the equine industry in Kentucky provides a \$3 billion financial impact. The equine program has 265 students who are studying environmental issues, pasture assessment, breeding programs, and reproduction. Kentucky is known as the reproduction capital. Over 65 percent of the 265 students in the program are from out of state. Due to student increase, the program is facing a challenge in the lack of facilities. She also stated that the 4-H equine program continues to grow.

In response to Representative Denham, Dr. Cox stated that sport horses, such as trail riding horses, are increasing. There has been a decline in thoroughbreds, but it is too early to tell if other breeds are expanding.

Economic Update of Kentucky’s Tobacco Industry and Crop Production

Dr. Will Snell, Professor, Agriculture Economics, said that 2012 was a typical crop year. In 2012 agricultural receipts totaled approximately \$5 billion, the highest ever, and net farm income was the highest ever. Grain prices decreased in August, but Kentucky yields are good and prices should stay strong. Beef numbers declined, but prices are still good and the markets are holding. Dr. Snell said that burley prices increased and there were more contracts. Wet weather earlier this

year damaged some Kentucky crops. The Congressional Farm Bill has yet to pass. Agriculture exports are still strong.

In response to Representative Stone, Dr. Snell said that tobacco insurance versus other crop insurance remained higher. In the absence of a Farm Bill, something may pass Congress, but not the proposed Farm Bill.

Fertilizer Regulatory Program

Stephen McMurry, Fertilizer Regulatory Program Coordinator, explained that the Division of Regulatory Services was committed to consumer protection and service to Kentucky citizens, businesses, and industries. The program monitors and analyzes feed, fertilizer, milk, and seed projects. Eight regulatory inspectors and one auditor cover the state collecting samples on raw milk, inspecting facilities, reviewing labels, and auditing records. Audits of sales and fee payments are conducted on feed, fertilizer, seed and milk firms in Kentucky to verify reports, records, and fee payments. The Kentucky Fertilizer Law ensures that fertilizers sold in Kentucky are clearly and accurately labeled so that consumers can make informed purchases with confidence in its quality. Staff conducted 1,337 site visits performing inspections and sampling of lawn, turf and garden fertilizer at Kentucky processing, wholesale, and retail locations. The division administered actions on 2,526 official and 78 unofficial samples of fertilizer.

The Seed Regulatory Program ensures consumers of quality seed. He said that 1,774 official seed samples were tested, and there were 235 stop-sale orders on 235 official seed samples at seed and processor locations. The Feed Regulatory Program provides consumer protection for livestock feed and pet food. The program ensures safety, suitability and quality of animal feed in producing meat, milk, and eggs for human consumption and products for companion animals. The program provided 1,316 official inspections on feed manufacturers and dealers.

The Milk Regulator Program ensures raw farm milk that is produced and marketed in Kentucky is bought and sold using accurate weights and tests. The program reviewed applications and issued licenses to two transfer stations, 25 milk handlers, 17 laboratories, 75 technicians, and 348 sampler-weighers. In addition, over 7,402 official samples were analyzed.

Mr. McMurry stated that the Soil Testing Laboratory provides farmers, homeowners, greenhouse operators, and others with scientific information about the fertility status of soils or greenhouse media. In partnership with the Cooperative Extension Service, it provides lime and fertilizer recommendations based on laboratory results. The program received \$240,109 in income for service testing for July 1, 2011, through June 30, 2012.

In response to Senator Hornback and Representative Martha Jane King, Mr. McMurry stated that there is no ammonia nitrate in Kentucky.

Senator Stein and Representative Pullin talked about the Kentucky Family Impact Seminar being held in October. Senator Stein and Representative Pullin spoke about the positive impact that the Farm Stipend Program, in partnership with Grow Appalachia through the Domestic Violence Association, has had on victims of violence. The program helps victims of abuse to develop horticulture skills and small business experiences. The seminar will look at building strong families for Kentucky partners in food and health. Both encouraged legislators to attend the seminar.

Meeting adjourned at approximately 10:30 a.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 3rd Meeting of the 2013 Interim

August 22, 2013

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 22, 2013, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Bob Leeper, 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., David P. Givens, Sara Beth Gregory, Ernie Harris, Stan Humphries, Christian McDaniel, Gerald A. Neal, and Robert Stivers II; Representatives Dwight D. Butler, John Carney, Leslie Combs, Jesse Crenshaw, Ron Crimm, Robert R. Damron, Mike Denham, Bob M. DeWeese, Myron Dossett, Kelly Flood, Jim Glenn, Martha Jane King, Jimmie Lee, Marie Rader, Jody Richards, Steven Rudy, Sal Santoro, Arnold Simpson, Rita Smart, David Watkins, Susan Westrom, Addia Wuchner, and Jill York.

Guests: Larry Hayes, Secretary, Cabinet for Economic Development; Erik Dunnigan, Commissioner, Department for Business Development; Mandy Lambert, Deputy Commissioner, Department for Business Development; Jane C. Driskell, State Budget Director; John Hicks, Deputy State Budget Director, Office for Policy and Management; Greg Harkenrider, Deputy Executive Director for Financial Analysis; Jim T. Ward, Judge/Executive of Letcher County; Albey Brock, Judge/Executive of Bell County.

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

Representative Damron moved to approve the minutes from the previous meeting as written. The motion was seconded by Representative Richards, and it carried by voice vote.

Economic development update

The Cabinet for Economic Development Secretary Larry Hayes, along with Mr. Erik Dunnigan,

Commissioner and Ms. Mandy Lambert, Deputy Commissioner of the Department for Business Development, discussed economic development efforts in the Commonwealth. Following Secretary Hayes' opening comments, Mr. Dunnigan discussed Kentucky's economic growth. The state should reach pre-recession employment levels by the end of 2013, with economic growth in both rural and urban areas. There have been over 100 new project announcements, and there are over 200 projects awaiting final approval. As of July 2013, there have been over \$2 billion newly investment and over 800 new jobs.

Mr. Dunnigan discussed Kentucky's robust automotive production industry. All three major automotive manufacturers have recently made major investments in their Kentucky facilities. Since January 2010, more than 200 motor vehicle-related projects have been announced, representing 14,500 new jobs and \$3.5 billion in capital investment. Kentucky's mid-year production ranks third in the nation and first on a per capita basis. Seventy-eight counties have an employer linked to the automotive industry.

Mr. Dunnigan discussed foreign investment in the state. Kentucky has 400 foreign-owned facilities representing 30 different countries. Collectively, they employ over 80,000 workers. The three year employment growth rate in these facilities was 12 percent, compared to an overall growth rate of 6 percent for the state. In 2012, nearly 35 percent of all new capital investment and 20 percent of all new jobs announced were a result of foreign investment.

Mr. Dunnigan discussed Kentucky exports, stating that exports reached a record of \$22.1 billion in 2012, with products and services going to nearly 200 countries. Kentucky's mid-year export growth is ranked second in the nation, up 12.6 percent compared with the overall U.S. average of 1 percent. He reported on the efforts of the Kentucky Export Initiative and the Office for Entrepreneurship.

Mr. Dunnigan discussed the cabinet's workforce development efforts and the need for an educated workforce. The cabinet's goal is to provide clients with a primary point of contact in this area, serving as a more integrated and easily identifiable workforce service provider. This goal will be attained by combining efforts with other cabinets to provide training, assessment, job screening and other services for potential employees and employers. He also discussed the Work Ready Communities program. Certification through this program lets companies know that a community meets standards in categories such as community commitment, educational attainment, and infrastructure availability.

Ms. Mandy Lambert, Deputy Commissioner of the Department for Business Development, discussed the recently launched "Select Kentucky" GIS

site selection tool. This is a centralized portal for businesses to search for available properties, existing industry data, and community demographics. The tool is a partnership with the Commonwealth Office of Technology, designed to provide potential employers with the most up-to-date data and pleasant site selection experience possible. She also discussed media familiarization tours which showcase Kentucky's industry and quality of life to a global audience.

In response to a question from Representative Carney, Mr. Dunnigan stated that the cabinet is working with many rural counties to help them achieve the Work Ready designation.

FY 2012 – 2013 year end summary

Ms. Jane C. Driskell, the State Budget Director, presented the FY 13 yearend financial report. She stated that the total year end receipts for FY 13 was \$9,348 million, which is a 2.8 percent increase in revenue as compared to FY 12. Sales and use tax receipts decreased in FY 13 by \$30.4 million, but individual income tax receipts increased by \$210.9 million, corporate income tax receipts increased by \$26 million, and LLET receipts increased by \$45 million. Total receipts for FY 13 increased by \$257 million over FY 12, which exceeded the official estimate by \$40.5 million.

Ms. Driskell discussed the FY 13 General Fund surplus, which was \$70.6 million. The FY 13 General Fund yearend balance was \$122.7 million, and there was a negative \$52.1 million carry forward. The surplus represents revenues in excess of the official estimate and decreased spending over budgeted appropriation levels. Ms. Driskell explained necessary government expenses (NGE) and outlined the estimated NGE levels for FY 13, which totaled \$49.6 million, \$3.9 million over the budgeted amount. She also provided a historical overview of NGE over the past 3 bienniums. The 2012 RS HB 265 General Fund surplus expenditure plan requires that \$45 million of the \$70.6 million surplus go towards FY 14 NGE. The remainder, \$25.6 million, is to be deposited into the Budget Reserve Trust Fund.

Ms. Driskell discussed the Budget Reserve Trust Fund, stating that the current balance is \$147.3 million. The balance will drop to \$98.3 million after \$49 million earmarked by the FY 14 enacted budget is used. She discussed state agencies that had FY 13 shortfalls. The Kentucky State Police, Kentucky State Fair Board, the Department of Parks, Department of Public Advocacy, and Department of Natural Resources suffered FY 13 budget shortfalls.

Ms. Driskell discussed the FY 13 Road Fund summary. Road Fund receipts for FY 13 were \$1,491.6 million, which is a 3.3 percent increase over FY 12. The largest receipt increases were in the motor fuels tax and the motor vehicle usage tax. The overall FY 13 receipts fell short of the enacted estimate by \$8 million. There is a

surplus of \$17.7 million over the enacted budget, which will be deposited into the state construction account.

In response to a question from Representative Westrom, Ms. Driskell said that she can provide the committee with a report regarding the impacts of federal sequestration on agency budgets. Mr. John Hicks, Deputy State Budget Director of the Office for Policy and Management, replied that information regarding federal funding was supplied in the July meeting.

In response to a question from Representative Rand, Ms. Driskell said that the shortfalls in the Department of Parks were not associated with the Kentucky Horse Park. Mr. Hicks discussed the Kentucky prison population and stated that the budget estimates should be more accurate for the next budget cycle.

Impact of reductions in coal severance tax receipts on local governments

Jim T. Ward, Judge/Executive of Letcher County and Albey Brock, Judge/Executive of Bell County discussed the impact of reductions in coal severance tax revenues on their counties. Judge Ward noted that, in his county, coal severance funds are used to operate the jail, sewer systems, and senior citizen centers, and to provide other services that residents rely on. Judge Ward noted that his county is down \$1.3 million dollars in coal severance receipts out of a \$10.7 million dollar budget. The cuts that will need to be made will impact the county's everyday operations.

Judge Ward reviewed the allocation of funds from the coal severance taxes, and requested that the General Assembly examine and possibly amend the formula for the distribution of coal severance funds. He noted that the "off the top", "off the middle" and "off the bottom" allocations from coal severance taxes, including the line item projects that are designated in the budget and are paid for with coal severance funds, concern him because those projects are funded first. With less severance money available overall, less and less money is flowing to the counties to assist with general operations. The reduction in coal mining and mining jobs has resulted in lower tax receipts in all areas where local governments impose taxes, creating additional revenue pressures in his county.

Judge Brock noted that Local Government Economic Assistance Fund (LGEAF) funds are used by counties to meet unfunded state mandates such as jails and animal shelters. Until recently, LGEAF moneys were sufficient to support these functions, but with the current reduction in severance tax receipts and an expectation that increases are not forthcoming, the issues created by the lack of resources will continue into the future and the problem will get worse if the General Assembly does not step in to help.

Judge Brock suggested that the formula for fund allocations be amended to allow a larger portion of the total

money available to counties to be used more flexibly, as allowed under the LGEAF. Thirty-five percent is deposited in the Local Government Economic Development Fund, and 15 percent is deposited into the LGEAF fund. Judge Brock recommended that the General Assembly consider reversing those percentages so that the larger amount is distributed to counties in a manner that allows for more flexibility.

There being no further business, the meeting was adjourned at 3:15 p.m.

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 3rd Meeting of the 2013 Interim
September 9, 2013

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on Education was held on Monday, September 9, 2013, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Mike Wilson, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Derrick Graham, Co-Chair; Senators Walter Blevins Jr., Joe Bowen, Jared Carpenter, David P. Givens, Denise Harper Angel, Jimmy Higdon, Stan Humphries, Alice Forgy Kerr, Gerald A. Neal, and Katie Stine; Representatives Regina Bunch, John Carney, Hubert Collins, Leslie Combs, C.B. Embry Jr., Kelly Flood, Richard Heath, Joni L. Jenkins, James Kay, Brian Linder, Mary Lou Marzian, Donna Mayfield, Reginald Meeks, Charles Miller, Rick G. Nelson, Marie Rader, Jody Richards, Tom Riner, Bart Rowland, Rita Smart, Wilson Stone, David Watkins, Addia Wuchner, and Jill York.

Guests: Clyde Caudill, Jefferson County Public Schools and Kentucky Association of School Administrators; Pam Sayler and Dr. Robert Storer, Walton-Verona Board of Education; Sue Cain, Council on Postsecondary Education; Robert Rodosky, Jefferson County Public Schools; Erin Klarer and Diana Barber, Kentucky Higher Education Assistance Authority and Kentucky Higher Education Student Loan Corporation; Bill Simpson, Hal Heiner, Kentucky Charter School Association; Stuart Johnston and Beth Brinly, Education and Workforce Development Cabinet; and Marti White, Kentucky Association of School Superintendents.

Legislative Guests: Representatives Brad Montell and Arnold Simpson.

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

Approval of July 8, 2013, Minutes

Upon motion by Representative Graham and a second by Representative Collins, the minutes were approved by voice vote.

Reports from Subcommittees

Representative Meeks reported

that the Subcommittee on Postsecondary Education met to learn about the impact of university research on economic development in Kentucky. Representative Stone reported that the Subcommittee on Elementary and Secondary Education heard from the Kentucky Department of Education (KDE) about the implementation of Senate Bill 97 and efforts to increase college and career readiness. A complete set of minutes for each subcommittee is located in the Legislative Research Commission (LRC) library.

Senator Bowen expressed concern with the starting times of the subcommittee meetings and said more consideration should be given to legislators driving in from western Kentucky. Representative Graham and Senator Wilson will take the concern under consideration.

Presentation: Districts of Innovation

Terry Holliday, Commissioner, KDE, introduced David Cook, Director, Division of Innovation and Partner Engagement, who said House Bill (HB) 37 was enacted during the 2012 General Assembly and provided the opportunity for local districts to create innovative approaches to education. The new regulation 701 KAR 5:140 was approved in May 2013.

Mr. Cook said the districts of innovation application process is one that rates each application against a rubric. He emphasized that the process is not a competition. Sixteen districts applied in the first round and four were selected: Danville Independent, Eminence Independent, Jefferson County, and Taylor County. Feedback was provided to the applicants not chosen, who will be eligible to reapply in October 2013.

Mr. Cook said there were 50 statutory and regulatory waiver requests in the 16 applications, including 28 waiver requests included in the four selected applications. He noted 10 waivers were granted in the areas of compensation, class size, calendar, attendance, graduation requirements, governance, and priority schools. Ten funding waivers were partially approved based on language in HB 37, and eight waivers were denied. Seven of the denials related to issues which the Kentucky Board of Education has no authority to waive: certification by the Education Professional Standards Board (EPSB) and district and school accountability.

Mr. Cook said round two applications are due October 31, 2013. A new element of round two will be site visits for “finalists” as part of the application process. With certification requests being the largest percentage of requests, the potential inclusion of EPSB in the process will be evaluated. Such inclusion may require legislation.

Roger Cook, Superintendent, Taylor County Schools, said removing the grading system and personalizing the learning path for each student has resulted in eliminating the desire for students to

dropout of school. Students are excited to learn and be in school. More flexibility is needed from the General Assembly for school districts to become more innovative and save the Commonwealth money.

Buddy Berry, Superintendent, Eminence Independent Schools, testified that the innovation has saved the district \$250,000. He said Eminence Independent has implemented the first alternate salary schedule in the state for certified staff, and has placed the first student on the School Based Decision-Making (SBDM) council. The number of college ready students has doubled from 37 to 74 percent.

Responding to Senator Wilson, Mr. David Cook said the school districts have a memorandum of understanding with the KDE and there are monthly face-to-face and virtual meetings with the districts. Districts can be placed on probation or approval withdrawn from the program if they are not adhering to the agreements in the application.

Senator Higdon commended Taylor County on its student success rate and the fact that all students have access to an iPad. He said a virtual high school is also offered for students who may not be able to physically attend school in the building, or for older dropouts who may want to complete their degree later in life.

Responding to questions from Senator Neal, Dr. Holliday said the districts of innovation will be evaluated with the standards found in the school report card, the accountability required under the No Child Left Behind Waiver, and the ACT, EXPLORE, and PLAN college and career readiness assessment scores required in Senate Bill 1. Mr. David Cook said applicants had to be very intentional about how the innovative strategies would help students not performing well in the traditional school setting.

Responding to Representative York, Mr. David Cook said smaller districts have an easier implementation timetable and see results faster. He noted Jefferson County is deemed the largest school district with over 100,000 students and multiple middle and high schools. He anticipates medium-sized districts with multiple high schools having successful applications in the second round that will hopefully provide a blueprint for districts of varying sizes and geographic differences.

Responding to questions from Representative Graham, Mr. David Cook said the 12 applicants who were turned down in the first round will not have any advantages in the second round other than prior experience using the rubric. They are familiar with the successful applications selected in the first round and understand what they may do differently in the second round.

Presentation: Charter Schools

Hal Heiner, Chairman, Kentucky Charter Schools Association, said Kentucky is one of just eight states that have yet to enact a public charter school law. The state has an opportunity to create

a quality law that draws upon 20 years of national research and experience with what does and does not work in creating a high performing charter school system.

Dr. Wayne Lewis, Jr., board member of the Kentucky Charter School Association and professor at University of Kentucky, said school choice is not an option for everyone, especially those living in poverty. According to KDE, African American students in 2012 had an average freshman graduation rate of 72.1 percent; up 5.3 percentage points from 2008, but 7.9 percentage points lower than the average freshman graduation rate of white students in Kentucky in 2012 (80.0 percent).

Dr. Lewis said in Kentucky’s class of 2012, about five percent of black students met ACT college-readiness standards in all four subject areas compared to 42 percent of Asian students, 32 percent of white students, and 13 percent of Hispanic students. He emphasized that funding follows the student and charter schools do not take away funding for public schools.

Ken Campbell, President, Black Alliance for Educational Options (BAEO), said the achievement gaps between white, black, rich, and poor students are large and persistent. Charter schools serve less than five percent of the student population across the country, but 64 percent of parents surveyed by BAEO support them. He said charter schools are a tool, but not a fix-all solution for the education system.

Margaret Raymond, Director, Center for Research on Education Outcomes (CREDO), Stanford University, said CREDO has taken a policy-neutral stance on the policies and programs it evaluates, including charter or public schools. It is, however, in favor of great schools for all students.

Ms. Raymond testified that in June 2013, CREDO released its second National Charter School Study. It is the most extensive evaluation of charter school performance to date, covering 26 of the 43 states that allow charter schools to operate. Those 26 states educate more than 90 percent of the 2.1 million charter school students in the nation.

Ms. Raymond said performance in the charter school sector as measured by academic progress of students is improving. Where this occurs, the charter schools out perform their local district schools, sometimes providing additional learning opportunities equivalent to an extra 14 days in reading in a traditional school.

Ms. Raymond said there is variation in the quality of charter schools but that variation in student performance in charter schools has nothing to do with the number or types of students who enroll in them. Charter schools can create competitive pressure on traditional public schools, but only if the quality is high.

Ms. Raymond submitted several published studies for the record. She will submit a copy of her next study about how legislation can support high quality

schools to staff for the record once it is released.

Responding to Senator Wilson, Mr. Campbell said Washington, D.C., has over 50 percent of its students enrolled in public charter schools. Ms. Raymond said New Orleans has 93 percent of its public school children enrolled in charter schools.

Responding to Senator Bowen, Mr. Campbell said fewer districts apply for charter schools in rural areas. Some state laws permit small districts to merge together to offer a charter school for children, but charter schools seem to have the greatest impact and success in urban areas.

Responding to Representative Wuchner, Mr. Campbell said the success of a charter school is subject to criteria established in state law. He said Kentucky needs to have a straightforward implementation process to greatly increase the chances for a successful charter school. Ms. Raymond said most of the charter schools that are underperforming are not new schools but charter schools that have been around for years. This could be indicative of the authorizers not holding charter school for the flexibility granted. She said charter schools that are not performing well should be closed down.

Responding to Representative Meeks, Dr. Lewis said most people in Kentucky do not understand charter schools. He said teachers, particularly in Jefferson County, are not given accurate information on charter schools from the teacher association. He emphasized that low-performing public schools should not be receiving monies if they are failing Kentucky’s children. Those funds should move with the child to the charter school, or a school where the child can succeed.

Ms. Raymond said nationally there is an excess demand for seats in charter schools that is equal to one-quarter of the entire capacity of existing charter schools. She said 560,000 parents requested for their children to attend charter schools across the nation, and there is no space for them.

Ms. Raymond said there is empirical evidence that suggests providing underserved students with a strong teacher for four years in a row will completely erase any education deficits that the student brings to school. She believes that parents and communities are extremely important, but teacher quality and the flexibility to adapt curriculum and instruction to the specific needs of a child is the way to offset learning deficits.

Representative Meeks said it is doing Jefferson County Public School teachers a disservice to indicate that the only information they have about charter schools is provided to them from the teacher association.

Responding to Senator Stine, Ms. Raymond said Missouri, Nevada, Indiana, and Massachusetts are state models that Kentucky could emulate.

Senator Neal requested another meeting to continue the discussion.

He expressed disappointment that the committee did not hear from an official in Jefferson County in the audience who had requested to speak.

Review of Executive Order 2013-518

Chairman Wilson said the committee will pass over the review of Executive Order 2013-518 that was listed on the agenda. He said testimony would be heard on the Executive Order during the 2014 regular session of the General Assembly.

Review of Administrative Regulations

Diana Barber, General Counsel, and Carl Rollins, Executive Director, Kentucky Higher Education Assistance Authority (KHEAA) explained administrative regulation 11 KAR 15:090. Dr. Rollins said the administrative regulation sets out the procedures for administering the KEES program. The amendment will clarify the grading scales which must be utilized by high schools in calculating and reporting student grade point averages (GPA) for purposes of the KEES award eligibility.

Dr. Rollins said some school districts have been “creative” in developing a reporting system that allows more KEES funds for its students, and it qualifies students to receive KEES that normally they would ordinarily not earn under KHEAA’s requirements. He noted such policies can inflate students’ grade point averages and could potentially cost an additional \$28 million to fully fund the KEES program. He said all districts should be reporting in the same manner.

Responding to Senator Wilson, Dr. Rollins said each school district can determine its own grading scale. For the purposes of KEES reporting, it is necessary every district assign the same weights for grade letters.

Responding to Senator Stine, Dr. Rollins said grading is subjective, and eventually the same number of students make A’s in the districts with a rigorous grading scale as in others. He said Kentucky could change the KEES program to only award KEES based on End-of-Course (EOC) exams. He said another option would be to implement a standardized grading numerical scale.

Pam Sayler, Deputy Superintendent, Walton-Verona Schools, distributed handouts to committee handouts, including a proposed amendment to 11 KAR 15:090. Ms. Sayler is concerned that KHEAA communicated that the Walton-Verona school district will no longer be permitted to assign increments within the 4.0 scale for the purposes of KEES reporting. She noted that many school districts have been assigning increments within the 4.0 scale for years.

Ms. Sayler said the rationale for school districts to assign increments was to reward students for doing their very best. For example, the current grading scale for a “B” is 88 to 94, and the district feels the students who earn the 94 should be rewarded at a higher level than the

student that earns an 88. If KHEAA’s proposed amendment to the regulation is passed, school districts will be forced to revise the GPA scale and lower standards for students.

Responding to Representative Graham, Dr. Rollins said students taking Advanced Placement and International Baccalaureate classes use the five point grading scale and may report it for KEES purposes.

Representative Carney said that students who are receiving KEES scholarships funds based on a rigorous grading scale are more likely to retain eligibility over their college careers. Students who make A’s with a 91 on a less rigorous grading scale are more at-risk of losing the scholarship over the long-term.

Ms. Saylor believes a 91 is not “A” work. She believes KEES funds should only be distributed to students using the five-point rigorous grading scale. Dr. Rollins said KHEAA has no control over the grading scale as it is a local decision. He reiterated that legislation could be crafted to make a standard numerical grading scale, although schools districts will be opposed to this. He also said some grading scales are not always rigorous, but inflated.

Responding to Representative Wuchner, Dr. Rollins said the Walton-Verona grading scale resulted in the district students being awarded \$29,709 in KEES funds more than other school districts. If all school districts utilized this scale, it would cost \$28 million, and everyone’s KEES award would be reduced by 25 percent. He said this is unaffordable.

Representative Stone said every child should have equal access to KEES funds. He said it would be a huge task to implement uniform GPAs across the Commonwealth, and Kentucky may need to include uniform testing mechanisms, such as ACT or SAT scores, in the formula for distribution of KEES funds.

Representative Linder encouraged other school districts in the state to be more rigorous in their grading scales. He said \$28 million is not an accurate cost and he voiced his objection to the proposed amendment to 11 KAR 15:090.

Representative Graham moved to accept administrative regulation 11 KAR 15:090, as promulgated, and Representative Rader seconded the motion. The administrative regulation was passed by voice vote.

Adjournment

With no further business before the committee, the meeting adjourned at 3:30 PM.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Elementary and Secondary Education

Minutes of the 1st Meeting
of the 2013 Interim
September 9, 2013

Call to Order and Roll Call

The first meeting of the Subcommittee

on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Monday, September 9, 2013, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Wilson Stone, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Walter Blevins Jr., David P. Givens, and Denise Harper Angel; Representatives John Carney, Hubert Collins, James Kay, Brian Linder, Mary Lou Marzian, Charles Miller, Bart Rowland, and Jill York.

Guests: Clyde Caudill, Jefferson County Public Schools and Kentucky Association of School Administrators.

LRC Staff: Jo Carole Ellis, Janet Stevens, and Lisa W. Moore.

Chairman Wilson introduced himself and Co-Chair Senator Stan Humphries. A moment of silence was observed in memory of Faurest Coogle, Senate leadership staff.

Graduate Kentucky: Strategies for Implementing Senate Bill 97 and Increasing College and Career Readiness

Dr. Terry Holliday, Commissioner, Kentucky Department of Education (KDE) and Kelly Foster, Associate Commissioner, Office of Next Generation Schools and Districts, began the PowerPoint presentation by stating that as a result of Senate Bill (SB) 97, or the “Blitz to 96,” 96 school districts adopted policies raising the compulsory attendance age to 18 as of July 9 and 126 districts by August 29, 2013. The Kentucky Board of Education (KBE) recognized districts and the Governor and First Lady Beshear at the August KBE meeting, and over 100 superintendents and local board chairs attended a recognition ceremony at the Capitol.

Ms. Foster said the purpose of dropout prevention grants allows districts 1) time to define who the students are, 2) determine why and when the school is losing them, 3) determine where in the education pipeline students are getting off track, and 4) collaborate with the available community resources to strategically address the data and build a system of support.

Ms. Foster said districts will include in their Comprehensive District Improvement Plan (CDIP) under Goal #1, Raising the Graduation Rate, the strategies and activities to be used to implement the requirements of SB 97. KDE staff will provide continuous technical assistance throughout the planning process to assure that strategies and activities provide students with access to programs that will prepare them to be college and career ready. Dropout data will be collected and compared to strategies and activities across districts to identify successful local practices for inclusion in KDE’s best practices database.

Ms. Foster said districts and schools have access to the Persistence to

Graduation Tool (PtGT), an early warning indicator system in Infinite Campus for identifying students who may be off-track to graduate. She said a report is created that provides a complete ranked list of all students, based on the weighting of dropout indicators. Students with the highest risk indicators can be identified for intervention services. The dropout indicators include the percentage of classroom time missed; behavior, including in-school removals and suspensions; the percentage of grades failed; Limited English Proficiency (LEP); and two years older than expected for grade.

Ms. Foster said KDE created the Persistence to Graduation Evidence-Based Practices toolkit to help schools and districts identify and implement proven, successful strategies and interventions to keep students in school and moving toward graduation. The toolkit is a repository of best practices, interventions, and appropriate responses to the risk behaviors identified in the PtGT.

Ms. Foster said best practices from Kentucky schools are included in a searchable database located at <http://education.ky.gov/school/PagesKentucky-Best-Practices.aspx>

. This site is intended to support teachers, administrators, district personnel, and others seeking strategies that have proven successful in a variety of settings. In addition, this site recognizes and celebrates Kentucky schools that embody strategies that result in students who are college and career ready.

Ms. Foster said KDE is in the process of developing a discussion platform for KDE staff, school, and district personnel involved in dropout prevention to communicate, share successes, exchange ideas, and ask advice as it implements SB 97. This is designed to create a supportive community of learners and build additional capacity at the local level.

Ms. Foster concluded that Kentucky is hosting the 26th Annual Dropout Prevention Network National Conference on November 2-5, 2014, at the Galt House Hotel in Louisville, Kentucky. The conference will include presentations on 1) effective school- and district-level programs and strategies from across the country, 2) leadership and policy workshops, 3) school board member training, and 4) nationally-known keynote and general session speakers.

Responding to a question from Senator Givens, Dr. Holliday said most school districts are allowing two years for planning and implementation of strategies and identifying best practices for increasing the compulsory school age to 18. Some school districts, such as Taylor County, are unofficially doing it now.

Senator Givens said one in three students drop out of school after the age of 18. Dr. Holliday said Kentucky needs to value and promote certifications as well as two- and four-year postsecondary degrees. He said certifications can allow students to earn a living wage right out of high school or after completing one year in a community college. He also noted the unemployment rate is 50 percent for dropouts across the nation and dropouts are telling their peers how hard it is to find a job if you quit school.

Responding to Representative Stone, Dr. Holliday said KDE will begin tracking the data for school districts who have adopted the policy this year. He agreed that an identifiable list of dropout preventions would be helpful. He noted a 90 percent graduation rate by 2015 is the goal, whereas Kentucky posted a 63 percent graduation rate before the implementation of the Kentucky Education Reform Act (KERA). Currently, there is a 75 to 76 percent graduation rate.

Responding to Representative Linder, Dr. Holliday said he is against children being home schooled who are not receiving an adequate education. KDE will be tracking an increase in home school students if families or districts try to use home schooling as a way to dropout before the age of 18.

Representative Carney said commitment from the local administrators and staff is critical for successful implementation of the recommendations.

He is confident Kentucky will meet its goals in 2015.

Dr. Holliday said he spoke with 173 superintendents to discuss challenges in each of their respective school districts. He said \$570,000 has been allocated for dropout prevention grants, with each school district receiving \$10,000. He also said KDE will be requesting in the 2014-15 budget that Support Educational Excellence in Kentucky (SEEK) funds be restored to \$3,866 per student, which will be equivalent to \$60 million. Superintendents say restoring SEEK funding is the number one priority in the next budget cycle.

Responding to Senator Givens, Dr. Holliday said the SEEK budget request will be \$60 million in the first year, and \$90 million in the second year. The increase in the second year is attributed to expecting 6,000 additional students being enrolled.

Dr. Holliday said the Governor will be announcing college and career readiness and graduation rates for the state on September 17, 2013. School and district results will be announced by September 27, 2013. He said KDE met the August 1, 2013, reporting deadline identified in Senate Bill 1 so schools were able to start the year with individual student assessment information.

Dr. Holliday said the goal of Senate Bill 1 is to reduce college remediation rates at least 50 percent by 2014 from what they were in 2010, and increase college completion rates of students enrolled in one or more remedial classes by 3 percent annually from 2009 to 2014. He said numerous strategies will be used to meet the goals, including targeted interventions. He noted 85 percent of students who take transition or remediation courses in high school reach college and career readiness benchmarks.

Dr. Holliday said AdvanceKentucky is seeing unbelievable results. Reports are forthcoming that more minorities are taking and passing Advanced Placement (AP) courses, which means these students are college ready.

Dr. Holliday said Kentucky wants to increase the graduation rate from 76 percent (36,480 students) to 90 percent (43,200 students) by 2015. Kentucky hopes to increase the percentage of students who are college and career ready from 34 percent (16,320 students) to 67 percent (32,160 students) by 2015. The state exceeded its goal of 49 percent of students on trajectory in 2012-13 and is on track to meet Senate Bill 1 goals.

Responding to Representative Stone, Dr. Holliday said students must meet the benchmarks of the ACT, the Computer Adaptive Placement Assessment and Support System (COMPASS), or the Kentucky Online Testing Program (KYOTE), in order to be considered college ready. To be deemed career ready, students must meet benchmark requirements in both the career academic area and the career technical area.

Dr. Holliday said the mission of Career and Technical Education (CTE) is to assist schools in providing students with skills necessary for a successful transition to postsecondary education or work and a desire for life-long learning in a global society. CTE is an essential component of the high school curriculum. For many students, it represents as much as a third of their high school experience. It is a critical component in meeting the needs of students in academic achievement, career exploration, career preparation, and leadership development.

Dr. Holliday said 98 percent of Kentucky students that concentrate in CTE graduate from high school. He said students that complete a CTE program at the secondary level and obtain an industry certification are more likely to be employed or attending a postsecondary institution two years after graduating from high school than those students that do not complete a CTE program. Business and industry across the Commonwealth are expressing the need for more skilled workers. CTE graduates make 11 percent more in salaries than their counterparts.

With no further business before the committee, the meeting adjourned at 11:00 a.m.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Postsecondary Education

Minutes of the 1st Meeting of the 2013 Interim

September 9, 2013

Call to Order and Roll Call

The first meeting of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education was held Monday, September 9, 2013, 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: Senator Alice Forgy Kerr, Co-Chair; Representative Reginald Meeks, Co-Chair; Senator Katie Stine; Representatives Leslie Combs, C.B. Embry Jr., Kelly Flood, Richard Heath, Donna Mayfield, Jody Richards, Tom Riner, Rita Smart, and David Watkins.

Guests: Erin Klarer, Kentucky Higher Education Assistance Authority and Kentucky Higher Education Student Loan Corporation.

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

The Impact of University Research on Economic Development in Kentucky

Robert L. King, President, Kentucky Council on Postsecondary Education (CPE), said research tends to get overlooked regularly at postsecondary institutions because of the focus on college readiness and student success. The research components of postsecondary institutions are just as important as college readiness and student success and have a significant role in the long-term economic

future of Kentucky.

Mr. King said in order for Kentucky to compete in a global economy, postsecondary education must focus on the public good, knowledge creation, knowledge transfer, and building partnerships. Mr. King stated that the Improvement Act of 1997 (House Bill 1) was so important to re-thinking and restructuring higher education in Kentucky. House Bill 1 (1997) set three specific objectives. One objective was for the University of Kentucky (UK) to become a major comprehensive research institution ranked nationally in the top 20. Another objective was for the University of Louisville (UofL) to become a nationally recognized metropolitan research university. The last objective was for regional universities to each have at least one nationally recognized program of distinction or one nationally recognized applied research program, and to work cooperatively with other postsecondary institutions to assure access to quality degrees.

Mr. King said the strategic agenda for Kentucky postsecondary and adult education, Stronger by Degrees, has five focus areas: college readiness, student success, research, economic and community development, and efficiency and innovation. Some of the strategies that help underline the five focus areas are to encourage UK and UofL to play a central role in the creation of new knowledge and recognize universities and faculty members for the advancement of knowledge and enlightenment. Also, the strategies underline support for collaborative research efforts that leverage university expertise, and lead to research investments and commercialization in high-growth or emerging areas that are aligned with business and industry growth. Additional support is used to develop and implement a strategic communications plan that highlights campus-based research and development initiatives, the impact of this work on Kentucky's economic and community competitiveness, and to secure additional funding for research matching programs and explore new funding approaches to maximize research that fosters an innovative, creative, and entrepreneurial culture within the postsecondary education community.

Mr. King said CPE is encouraging students to pursue degrees and credentials in science, technology, engineering, math, and health (STEM+H) fields. There is a growing STEM+H capacity in Kentucky, and CPE has developed a STEM+H taskforce that helped develop a state-wide P-20 strategic action plan to accelerate Kentucky's performance within the STEM+H disciplines. Mr. King said between the years 2009-2012 all postsecondary institutions in the state had nearly 20,000 STEM+H degrees that were conferred.

Mr. King spoke about the Endowment Match Program which matches state dollars with private gifts to encourage

higher education research activities. The Endowment Match Program encourages private giving because donors can double their contributions by having them matched dollar for dollar by the state. Both state and private funds are endowed, which provides a perpetual source of research funding. In total, there has been \$820 million contributed into the endowment fund from state and private money and the endowment values today are worth over \$1.06 billion. Also, externally funded research has grown by over \$246.2 million and endowed positions grew by 451 positions. Mr. King stated that CPE will be asking for a new round of endowment match funding from the General Assembly this upcoming session.

Representative Jody Richards commented positively on the Endowment Match Program and commended Mr. King on his foresight and his recommendation for more money towards the Endowment Match Program.

In response to Senator Katie Stine's questions regarding state funds remaining to be matched and how other universities besides UK and UofL have been successful in obtaining Endowment funds, Mr. King said the state funds reside in an account that is part of CPE's budget. Mr. King said some of the Endowment Match Program resources would be made available to the comprehensive universities and those funds have been distributed.

In response to Representative Reginald Meeks' question regarding documenting the federal decrease and the impact of sequestration on the availability of dollars for matching funds, Mr. King said he cannot document it yet but the available resources for research funding across the country are under the restraints of sequestration.

In response to Representative Reginald Meeks' question regarding STEM+H degrees being specific to certain types of jobs, Mr. King said that there is interest in elevating associate degree level nursing degrees to bachelor degrees because of the increasing needs of people in the health care fields. Also, there are an increasing number of certificates in manufacturing and engineering technology.

James Tracy, Vice President for Research University of Kentucky, said he oversees the research programs at UK. He said UK is a land-grant research university that was authorized by the Morrill Act of 1862. All land-grant universities have a single mission with three parts. Those three parts are education, research, and public service. Dr. Tracy said research is an economic engine and UK in 2012 had \$360 million in total R&D expenditures. That is equivalent to a direct annual payroll of \$240 million and about \$14 million in state income tax revenue.

Dr. Tracy explained basic research at UK and stated there is a \$1.4 billion instrument located at Oak Ridge National Laboratory called the Spallation

Neutron Source that occupies eighty acres of land. This instrument is used to understand the fundamental forces that hold matter together. Also, UK's Department of Biology and Spinal Cord and Brain Injury Research Center studies tissue regeneration in salamanders. UK is studying the genetic mechanisms by which the salamanders are able to regenerate tissue. By having these studies on salamanders, the long term effect on understanding how tissue regenerates could provide new treatments in spinal cord and brain injuries in humans.

Dr. Tracy explained applied research at UK and stated UK has had two major applied research projects. One of the applied research projects is the production of a concrete called Tekcrete Fast that was developed at UK's Center for Applied Energy Research. Tekcrete Fast is now being sold worldwide and UK is starting to see the economic benefits from it. The other applied research project is the House Boat to Energy Efficient Residences (HBEER) Project. This project is led by the UK College of Design with engineering support from the Center for Applied Energy Research. HBEER responds to the economic downturns on the houseboat manufacturing industry and provides Kentucky's residence with energy efficient housing. One of the HBEER homes can heat or cool for \$1.65 a day, which is an 80 percent reduction in heating and cooling costs in a typical mobile home.

Dr. Tracy explained translational research at UK and said UK is looking at new treatments for pediatric heart disease. UK is using magnetic resonance imaging to improve life for pediatric patients. UK is using this technology to find defects in heart function that is common on pediatric patients and then apply it in the clinic.

Dr. Tracy explained the importance in strategic investments in research and said the Kentucky legislature provided \$120 million for construction of three floors at UK's BioPharm building in 2005-2006. UK added \$14.5 million of institutional funds to acquire land and to shell-in additional research floors. The building was opened in 2010 and pharmacy students began pursuing their studies there.

In response to Representative Tom Riner's question regarding strategic investments, Dr. Tracy said UK is always happy to receive financial support from industry and has a number of partnerships with companies around the country.

In response to Representative Rita Smart's question regarding the cost of the HBEER homes, Dr. Tracy said the first prototype that was built cost nearly \$100,000 and the second one almost \$80,000. The goal is to get the cost nearly to \$50,000.

William Pierce, Jr., Executive Vice President for Research and Innovation, University of Louisville, said UofL's mission is to be a premier nationally recognized metropolitan research

university. Dr. Pierce said 70 percent of funding for UofL's research comes from the federal government with 17 percent coming from the state, 7 percent industry and 6 percent non profit. UofL is focusing on increasing funding from other sources besides the federal government. Also, UofL is developing consortias with a variety of different groups across the nation.

Dr. Pierce said UofL is proud to be a part of the Coulter Translational Research Program, which is a bioengineering program. The program combines the talents of UofL's physicians and engineers to develop new devices, techniques, and procedures that are useful in medical practice. UofL recently commissioned a study on return on investment. Dr. Pierce stated the study is not just for research but it is also for state investment in UofL. The initial numbers from this study indicate that there is approximately three dollars generated in the state economy for every dollar the state invests in UofL.

Dr. Pierce stated that because of the Endowment Match Program, UofL has accomplished significant life-changing research. Dr. Roberto Bolli along with colleagues in Boston, developed a cellular treatment that appears to reverse damage from heart attacks and shows promise in treatment of many cardiovascular diseases. The treatment uses a patient's own cardiac cells to rejuvenate the heart. Also, at the James Graham Brown Cancer Center, physicians and caregivers continue to seek new and better ways to provide treatment to patients. Researchers use tobacco plants to deliver a vaccine to prevent cervical cancer and researchers also utilize unused computer time at schools throughout Kentucky to search for potential drugs designed to fight cancer.

Dr. Susan Harkema, Rehabilitation Research Director, and Professor, Department of Neurological Surgery, University of Louisville, said she is very fortunate to be in Kentucky and that she would not be here if not for the Endowment Match Program and the Kentucky Spinal Cord Injury Research Trust. It has been a critical funding support for research at UofL and has helped UofL be known nationally and internationally as the state that is doing incredible neurotrauma research.

Representative Tom Riner thanked Dr. Pierce for his presentation and stated that he is thoroughly impressed with the research and work that goes on at the James Graham Brown Cancer Center.

In response to Representative Reginald Meeks' questions regarding state grants being utilized so research departments can keep staff in place, Dr. Harkema said the original idea of creating the endowment is fantastic because it is sustainable over time. Also, with research, universities are constantly building and funding needs to continue on with the specific needs of the university. Dr. Tracy agreed with Dr. Harkema and stated that for over 50 years university research

funding has depended on the federal government. He stated that there needs to be a way to create stable funding for the universities that are not as susceptible to grant money.

Representative Jody Richards commented positively on the presentation and stated that Western Kentucky University has a research facility that with new research programs that all started with the Endowment Match Program.

Kris Kimel, President, Kentucky Science and Technology Corporation (KSTC), said statewide and nationally there are mass transformations in the economy. Kentucky's economy now and in the future will not be structured by a few industries or companies. Kentucky needs to be structured and supported by thousands of entrepreneurial companies that are driven by people who grew up in Kentucky, moved to Kentucky, or are being retained in Kentucky.

Mr. Kimel said KSTC is a private independent company. The company was created in 1987 in response to the change in economy and to create something in Kentucky that was there to help and work with the state, private sectors, and universities to help forward a kind of new innovation in the economy. KSTC works very closely with CPE, Economic Development Cabinet, Department of Education, and many more companies in the Kentucky. Mr. Kimmel said ultimately, Kentucky has to have more companies that generate more products and more jobs at a higher volume to be successful.

Mr. Kimel said KSTC just recently started a Governor's School for Entrepreneurs. In this program, students from across the commonwealth learn the process of creative thinking, entrepreneurship, and how to start companies and new products. KSTC was expecting around 50 applications for the program yet received over 100 applications.

Sean O'Leary, Manager, Kentucky Enterprise Fund, said KSTC is reliant upon UK and UofL because many of the innovations KSTC funds emerge from of those universities and 75 percent of the companies KSTC funds have a partnership with UK and UofL. KSTC has invested \$23 million in a total of 89 companies over the past 10 years and that has created over \$270 million in private investment going into those same companies.

Mr. Kimel stated that in 2011, according to *The Coughlin Report*, Kentucky was rated as the fifth highest in the nation in increased entrepreneurial activity. Also, according to *Fast Company* magazine, Kentucky is now 21st in innovation among all states, fifth in entrepreneurial growth, and second in the country in percent growth for startup per one million residences.

In response to Representative Reginald Meeks' questions regarding companies staying in Kentucky, Mr. Kimel said in many cases, most companies do stay in Kentucky. Mr. O'Leary said

most companies stay where they are first established.

In response to Representative Jody Richards' question regarding Kentucky's entrepreneurial growth statistics, Mr. Kimel said he did not have the statistics with him, but he would forward the statistics to Chairman Meeks for the committee to review.

In response to Representative Rita Smart's question regarding documentation of statistics for individual counties, Mr. Kimel said he would deliver the documentation to Chairman Meeks.

With no further business before the committee, the meeting adjourned at 12:15 p.m.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Minutes of the Third Meeting of the 2013 Interim

August 21, 2013

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, August 21, 2013, at 12:00 PM, in Room 129 of the Capitol Annex. Senator Julie Denton, Co-Chair, called the meeting to order at 12:25 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, Jimmy Higdon, Alice Forgy Kerr, Kathy W. Stein, and Katie Stine; Representatives Julie Raque Adams, Robert Benvenuti III, Bob M. DeWeese, Kelly Flood, Joni L. Jenkins, Mary Lou Marzian, Tim Moore, Darryl T. Owens, Ruth Ann Palumbo, Ben Waide, David Watkins, Susan Westrom, and Addia Wuchner.

Guest Legislators: Senator Walter Blevins; and Representatives Jimmie Lee and John Will Stacy.

Guests: Whitney Jones, M.D., Kentucky Colon Cancer Screening Program Advisory Committee; Connie Gayle White, MD, MS, FACOG, Deputy Commissioner of Clinical Affairs, Director, Division of Prevention and Quality Improvement, Kentucky Department for Public Health, Cabinet for Health and Family Services; Wade Jordahl, Family and Children's Place; Natalie Harris, Executive Director, The Coalition for the Homeless; Jaime Montalvo, President, Irvin Rosenfeld, Medical Marijuana Patient, Chuck Thompson, Heart USA, William Ball, Retired Undercover Narcotics Officer, Dr. Patrick Moore, Psychiatry & Anesthesiology, Matt Simon, Legislative Analyst for the Marijuana Policy Project, Kentuckians for Medical Marijuana; Carol Reid, University of Kentucky; Dr. R. Stephen Amato and Florence Huffman, advocate for children with metabolic disorders; Dr. Charlton Mabry, University of Kentucky Pediatrics; Dr. John Langefeld, Chief Medical Officer, Department for Medicaid Services, Cabinet for Health and Family

Services; Bob Babbage and Stewart Perry, American Diabetes Association; Tom Rector, Legalize Kentucky; Mike Porter, Kentucky Dental Association; Paula Willett, citizen; Becki Thompson, Kentucky Colon Cancer Screening Program; Richard Bartlett, Kentucky Hospital Association; Debra Armstrong, Kentucky Cancer Program; Anne-Tyler Morgan, Kentucky Board of Emergency Medical Services; Shannon Buzard, citizen; Idress Kahloon, Lexington Herald-Leader; Dr. Robin Vanderpool, University of Kentucky Rural Cancer Prevention Center; David Adams, Kentucky Citizens Judicial; Mary White, Capital Link Consultants; Crystal and Eric Byrd; and Kim and Larry Calls.

LRC Staff: DeeAnn Mansfield, Ben Payne, Jonathan Scott, Sarah Kidder, Gina Rigsby, Cindy Smith, and Wesley Whistle.

Colon Cancer Screening

Whitney Jones, M.D., Kentucky Colon Cancer Screening Program Advisory Committee; Connie Gayle White, MD, MS, FACOG, Deputy Commissioner of Clinical Affairs, Director, Division of Prevention and Quality Improvement, Kentucky Department for Public Health, Cabinet for Health and Family Services, stated that Kentucky ranked 49th in the United States for colorectal cancer screenings in 1999 and 20th in 2010. The Kentucky Colon Cancer Screening Program (KCCSP) was enacted in 2005 in KRS 215.540 to 215.544. In 2012, the General Assembly appropriated \$1 million for the KCCSP. The target population of the program is low income uninsured adults aged 50 to 64. The program objects are to increase colon cancer screening, reduce morbidity and mortality from colon cancer, and reduce the cost of treating colon cancer through screening and early detection. Removing polyps is prevention not just detection. In 2012, a Request for Proposals (RFPs) was sent to all the local health departments, and whoever applied received funding. There are 33 counties that receive funding through the KCCSP. No complications have been reported on any colonoscopy. The goal is to find precancer to save lives and money for the state. The Kentucky Cancer Consortium Resource Plan estimates that treatment of early stage case of colorectal cancer costs \$53,179 and late stage case costs \$89,690. Partners with the Kentucky Cancer Screening Program are the Kentucky General Assembly, Kentucky Cancer Registry, Kentucky Cancer Consortium, Kentucky Cancer Foundation, Department for Public Health, local health departments, community health care providers, Kentucky Cancer Program, and the Kentucky Colon Cancer Screening Program Advisory Committee.

Homeless Prevention Pilot Project

Wade Jordahl, Family and Children's Place, Natalie Harris, Executive Director, The Coalition for the Homeless, and Shawn Ford, Adanta, stated that the Homeless Prevention Pilot Project (HPPP) was enacted by 2005 House Bill 376 with

a cost of \$96,000 annually. HPPP was designed to offer reintegration planning on a voluntary basis to persons exiting state-operated prisons, mental health facilities, and foster care. The Department for Behavioral Health, Developmental and Intellectual Disabilities within the Cabinet for Health and Family Services developed project guidelines and provides oversight. The project provides case management to participants entering the Adanta Region and Family and Children's Place in Jefferson County. HPPP objectives offer discharge planning services in one rural area and one urban area of the state, provide access to housing and community services through a single service agency in each area, and prevent 88 percent of the participants served from becoming homeless. The project has achieved a 98 percent homelessness prevention rate. The project has served 306 clients in homeless shelters, jail or prison, foster care, mental institution, and other areas. Approximately 232 clients had housing available after exiting the program. In 2010, HPPP saved \$370,800 by keeping clients from returning to prisons and mental health facilities.

Phenylketonuria (PKU) – Autosomal Recessive Metabolic Genetic Disorder

Florence Huffman, advocate for children with metabolic disorders, stated that the managed care organizations (MCOs) have been following Kentucky statutes that require coverage of metabolic disorders foods and formulas primarily for infants and children. When the MCOs started operating in Kentucky, there were problems with coding and payment of metabolic disorders and, therefore, caused delays in payments. The Maternal Child and Health Division, Department for Public Health, Cabinet for Health and Family Services, used funds collected from fees for birth certificates under KRS 213.141 for the payment of metabolic foods absolutely medically necessary during this timeframe. While there has been some improvement in payments, to date there is not an adequate status report as to which MCO is in full compliance. Walgreens Infusion Services, a new pharmacy, started providing services after Plaza Drug in Somerset stopped providing and servicing patients because of nonpayment. Dr. John Langefeld, Chief Medical Officer, Department for Medicaid Services, Cabinet for Health and Family Services, has been working closely with the MCOs' medical officers.

Dr. Charlton Mabry, University of Kentucky Pediatrics, stated that one in ten thousand births a child is affected with PKU. One problem is that health insurance companies do not want to cover the new food substitutes like other food supplements. In 2002, HB 395 was enacted that required health insurance companies to pay for the substitutes. Patients can lead a normal life, even though PKU is a lifetime disorder.

Dr. Stephen Amato, University of Kentucky Medical Center Pediatric

Metabolic Diseases, stated that the PKU newborn screening started in Kentucky in 1968. In 2005, Kentucky expanded newborn screening for inherited disorders that require special foods. The MCOs do not have experience with metabolic disorders and choose not to cover them the same way as medications. Children with PKU age out of covered programs, but their medical conditions do not change.

In response to questions by Senator Denton, Carol Reid, University of Kentucky, stated that there have been issues with the MCOs in Kentucky since November 2011, but not as many with Passport. The problems started when Kentucky Spirit, CoventryCares, and Wellcare resisted coverage in the eastern half of the state. One rationale given by these three MCOs for not covering supplies is that although it may be a Kentucky law, the MCO does not have to abide by this law. Another is the coding for medical foods not being covered. Someone in the Maternal and Child Health Division pointed out that it was covered in other states and should not be a legitimate excuse in Kentucky. The cabinet has had meetings with the MCOs and medical directors. A concern is that, if payments are not initiated by the MCOs or a payment is short of the cost of the foods, Walgreens, the pharmacy providing services, will no longer be able to provide the services.

Dr. John Langefeld, Chief Medical Officer, Department for Medicaid Services, Cabinet for Health and Family Services, stated that he met with all the MCOs' medical directors where it was agreed that clinically it was important and necessary and that it was a covered service. Ms. Reid stated that payments for these coverage services are not adequate to cover the costs by the pharmacies. Because of coding issues, there is a vast difference in reimbursement for items that are not complete formulas such as amino acid supplements. Senator Denton asked that the committee be provided information by the end of the month about the resolution of payment to pharmacies for coverage of the metabolic foods and formulas.

In response to questions by Senator Stein, Dr. Amato stated that it becomes more difficult for adults to obtain coverage for therapeutic foods.

In response to a question by Senator Buford, Dr. Langefeld stated that as of December 2012, there were 50 to 60 children in the Medicaid program that needed coverage for PKU services. Senator Buford suggested that PKU coverage be carved out of the MCO contract and be paid by the cabinet.

Minutes

A motion to approve the minutes of the June 19, 2013 and July 17, 2013 meetings was made by Senator Buford, seconded by Representative Watkins, and approved by voice vote.

Medical Marijuana

Senator Clark stated that it is

continuously said that medical marijuana has no value and is not medicine, yet in 2009 federal stimulus tax money went to some pharmaceuticals to conduct research on a medical marijuana patch in Kentucky. The National Cancer Institute article states that cannabinoid receptors have been identified in the brain. Cannabinoids have been identified as having a role in pain modulation, controlled movement, feeding behavior, and memory. PubMed.gov lists all the studies being conducted on any medication. The government holds the federal patent for uses of cannabinoids.

Jaime Montalvo, President, Kentuckians for Medical Marijuana stated that an article on the United States patent number 6630507 reports that cannabinoids are found to have particular application as neuroprotects in limiting neurological damage following ischemic insults, such as stroke and trauma, or in the treatment of neurodegenerative diseases, such as Alzheimer's disease, Parkinson's disease and HIV dementia. Nonpsychoactive cannabinoids, such as cannabidiol, are particularly advantageous to use because they avoid toxicity that is encountered with psychoactive cannabinoids at high doses.

Irvin Rosenfeld, Medical Marijuana Patient, stated that in 1963 he was diagnosed with bone tumors and told he may not make it out of his teenage years. Cannabis was used legally from 1850 to 1941 and prescribed as a muscle relaxer, anti-inflammatory, and pain reliever. After a ten-year battle, he became the second patient admitted into the Compassionate Investigational New Drug Program ran by the federal government. Since 1982, he has received 300 cannabis cigarettes from the federal government for his bone disorder. He has had a legal prescription from a doctor to receive a can of cannabis cigarettes for the past 30 years. There are only four people in the United States that are legally allowed possess marijuana in this country. The federal government has to change the law to legalize medical marijuana. Whether Kentucky does or does not pass a law to legalize marijuana, citizens will continue to use it for medically necessary conditions.

Chuck Thompson, Heart USA, stated that since 2003, his non-profit organization in Paducah has helped 3,200 people receive \$17 million of free medications. In 2005, his organization became a 501(c)(3), and in 2007 he received the Governor's Award for Volunteerism. In 2009, the Department for Public Health contacted organization and became the model for the Kentucky Prescription Assistance Program (KPAP). Approximately \$3 million was found for Kentucky citizens through the KPAP. In 2008, acting on a false sale of narcotics tip, the Paducah Police Department served a search warrant on him. He voluntarily gave up seven grams of medical marijuana and pipe. He received probation, had to give a urine sample weekly, and had to attend narcotics anonymous classes. He was fined \$4,500 for this offense,

and is subject to five years in jail for any subsequent offense. The KASPER program precludes any cannabis use, and, if caught, he would lose his methadone prescription he receives from his pain medication doctor. Because of the law, he is a methadone addict. He is a medicine user, not a drug abuser. Twenty states and Washington, D.C. have legalized the medicinal use of cannabis.

In response to questions by Senator Stein, William Ball, Retired Undercover Narcotics Officer, stated that the most abused drugs today are the pharmaceutical drugs. Since 1980, there are more arrests for heroin use than marijuana. Mr. Thompson stated that because of the KASPER rules restricting cannabis use, people have started to get illegal drugs for pain.

In response to questions by Senator Buford, Senator Clark stated that under federal law, a person can be arrested and charged if caught in possession of marijuana. Kentuckians cannot afford to wait for federal laws to change.

In response to questions by Senator Bowen, Matt Simon, Legislative Analyst for the Marijuana Policy Project, stated that if someone is caught in possession of a small amount of marijuana, the Louisville Police Department will issue a citation only. Senator Clark stated that Dr. Sanjay Gupta stated that there is no factual evidence marijuana is a gateway to heroin. Mr. Rosenfeld stated that the Patients Out of Time is the only organization in the United States to be sanctioned by the American Medical Association and the American Nurses Association to teach doctors and nurses about medical cannabis and provide continuing education credit every two years. Mr. Montalvo stated that the University of Kentucky and the University of Louisville have been contacted and have shown interest holding the conferences, but there are funding issues.

In response to a question by Representative Adams, Mr. Simon stated that marijuana has been an illegal drug for so long and people are familiar with smoking as recreational use. In 1999, the Institute of Medicine issued a report on a comprehensive science-based study on marijuana as medicine, and one conclusion was there are negatives associated with smoking, and there needs to be the development of a rapid onset method of ingesting medical marijuana. Since then vaporizers have been developed that heat the cannabis to a temperature below the point of combustion so there is no carbon monoxide and does not produce any smoke. Vaporizers have all the same immediate effects of smoking marijuana without all the carcinogens in smoke.

In response to questions by Senator Buford, Mr. Simon stated that there have been federal raids in the last several years in states that did not license or regulate dispensaries. In 2009, the United States Department of Justice released the following statement: As long as states operate in clear and unambiguous

compliance of state law, they will not be targets for federal prosecutions. There has not been a federal raid on a state-licensed, state-regulated medical marijuana dispensary and the federal government has never targeted individual patients or caregivers. Because all prescriptions are federally regulated, all the states that have effective medical marijuana laws use the term recommendation or certification rather than prescription. The dispensaries are not in compliance with federal law because all marijuana possession, transfer, or sale remains illegal under federal law.

Senator Denton stated that she wanted to be on record that she would not be party to any action taken after she leaves the meeting when the Senate reconvenes.

Dr. Patrick Moore, Psychiatry & Anesthesiology, stated that prescription drugs are the gateway to heroin.

In response to questions by Representative Benevenuti, Dr. Moore stated that Dr. Sanja Gupta said that only 94 percent of the United States research conducted is oriented toward the negative effects of medical marijuana. Representative Benvenuti stated that Kentucky needs to start making medically evidence-based decisions. Mr. Montalvo stated that United States patent number 663057 reports some of the medical benefits of marijuana. The National Institute on Drug Abuse has only received funds for studies against the use of medical marijuana.

In response to a question by Representative Owens, Mr. Simon stated that doctors cannot prescribe medical marijuana only recommend its use.

In response to a question by Representative Watkins, Mr. Rosenfeld stated that his doctor is only one of three doctors licensed in the United States to prescribe medical marijuana.

Representative Moore stated that over half of applicants do not qualify for military service because of drug use. Marijuana is a prohibited substance in the military, and there will be a tremendous conflict if a state legalizes it but the military prohibits its use. Legalizing marijuana is a major military readiness issue with serious ramifications and it is seen as a detriment to recruitment if it is legalized.

In response to questions by Representative Wuchner, Mr. Simon stated that medical marijuana has not gone through the three phases of medical clinical trials for new medications. The National Institute on Drug Abuse's (NIDA) mandate from Congress is to study marijuana as a substance of abuse not as a potential medicine. Studies have been conducted in other countries on medical marijuana, but studies have been heavily restricted in the United States. Senator Clark stated that because cannabis is a Schedule I drug, the federal government disallows its study.

In response to questions by Representative Adams, Mr. Rosenfeld

stated that the main active ingredient in marijuana that makes a person euphoric is THC, and another ingredient is a cannabinoid (CBD) that takes away the high. Scientists can grow marijuana plants marijuana with the CBD that does not cause any euphoric effect but has medical properties. Dispensaries in some of the states that allow the use of medical marijuana have different types or strains of the plant in order to treat different diseases. Representative Adams asked Mr. Rosenfeld to provide summary of the states that allow medical marijuana and how the transition was handled.

In response to questions by Senator Denton, Mr. Rosenfeld stated that juicing a marijuana plant does not cause psycho-altering affects. Juicing a plant means to take a natural plant and make a juice out of it that takes away any euphoric affect. Juicing does require more of the product. There are different costs for the different strains of cannabis because of the how much is involved in growing the different plants.

Consideration of Referred Administrative Regulations

The following administrative regulations were available for consideration: **201 KAR 2:020** – establishes the examination and application requirements for obtaining a license to practice pharmacy in Kentucky; **201 KAR 2:030** – establishes conditions, forms, and examination requirements for licensure by reciprocity (KBP); **201 KAR 20:400** – establishes requirements that govern the delegation of a nursing task in a safe, effective manner so as to safeguard the health and welfare of the citizens of the Commonwealth; **202 KAR 7:330** – establishes requirements for examination, certification, and recertification of the AEMT; **202 KAR 7:520** – establishes standards and criteria governing the allocation of emergency medical services funding assistance to eligible applicants; and **202 KAR 7:540** – establishes standards and criteria for EMS data collection, submission, and compliance of ambulance services furnished to the KBEMS. The Kentucky Board of Nursing sent a letter to the Administrative Regulations Review Subcommittee Regulations Compiler Wednesday, August 21, 2013, requesting the withdrawal of **201 KAR 20:400** to continue its study of the issues and questions raised by the board. A motion to accept the administrative regulations was made by Representative Marzian, seconded by Representative Jenkins, and accepted by voice vote.

Adjournment

There being no further business, the meeting was adjourned at 2:45 p.m.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Minutes of the Fourth Meeting of the 2013 Interim
September 18, 2013

Call to Order and Roll Call

The fourth meeting of the Interim

Joint Committee on Health and Welfare was held on Wednesday, September 18, 2013, at 1:00 p.m., in Room 129 of the Capitol Annex. Senator Julie Denton, Co-Chair, called the meeting to order at 1:09 p.m., and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Tom Burch, Co-Chair; Senators Joe Bowen, Perry B. Clark, David P. Givens, Denise Harper Angel, Alice Forgy Kerr, and Katie Stine; Representatives Julie Raque Adams, Robert Benvenuti III, Bob M. DeWeese, Kelly Flood, Ruth Ann Palumbo, Russell Webber, Susan Westrom, and Addia Wuchner.

Guests: Kathryn Cohen, Legislative and Policy Counsel, Treatment Advocacy Center, Arlington, Virginia; Sheila Schuster, Advocacy Action Network and Kentucky Mental Health Coalition; Kelly Gunning, NAMI Lexington and family member; Kim Wilkie, District Court Judge; Ed Monahan, Department of Public Advocacy; Gina G. Burns, Family Member and Kentucky Mental Health Advocate; Brien Shea, President, EGI Healthcare Marketing; Randy Strause, Child Care Advocates of Kentucky; Dr. Terry I. Brooks, Executive Director, Kentucky Youth Advocates; Reggie Gentry, Member of the Protection & Advocacy for Individuals with Mental Illness Advisory Council and Retired Chaplin at Eastern State Hospital; Sarah McCoun, Stephanie Hold, Kim Rousch, and Mary Reinle Begley, Office of Inspector General; Terry Brownson and Diana Caldwell, Wendell Foster's Campus for Developmental Disabilities; Michelle DeJohn, Division of Childcare, Cabinet for Health and Family Services; Phill Gunning, Valerie Mudd, and Cathy Epperson, NAMI Lexington; Bill Doll and Cory Meadows, Kentucky Medical Association; Sandra Flynn, Grandmother; Becky Taylor and Carolyn Collier, family members; Mark R. Brengelman, Kentucky Board of Physical Therapy; Christina Stopher and M. Brooke Anderson, parents; Emily Parento, Office of Health Policy, Cabinet for Health and Family Services; Sharon Yelton, Children, Inc.; and Mike Hamms, Kentucky's Voice for Early Childhood; Clyde Caudill, Jefferson County Schools, Kentucky Association of School Administrators; Molly Clouse and Ja-ron S. Teague, consumer.

LRC Staff: DeeAnn Wenk, Ben Payne, Jonathan Scott, Sarah Kidder, Gina Rigsby, Cindy Smith, and Wesley Whistle.

Minutes

A motion to approve the minutes of the August 21, 2013 meeting was made by Representative Burch, seconded by Senator Clark, and approved by voice vote.

Consideration of Referred Administrative Regulations

The following administrative regulations were available for consideration: **201 KAR 22:045** – establishes continued competency

requirements and procedures as a condition of license renewal by the Kentucky Board of Physical Therapy; **201 KAR 22:055E** – interim standards for supervision for physical therapists until September 1, 2013; **201 KAR 22:130** – outlines the per diem that members will receive when required to represent the Kentucky Board of Physical Therapy or attend its meetings; **900 KAR 6:030** – provides for the adjustment of expenditure minimums for capital expenditures and major medical equipment; **900 KAR 6:120** – establishes the provisions for the certificate of need approved angioplasty two (2) year trial program in hospitals without on-site open heart surgery; **900 KAR 6:125** – establishes the requirements for registration of Magnetic Resonance Imaging units and the requirements for submission of annual survey data that are used to produce annual reports necessary for the orderly administration of the Certificate of Need Program; **906 KAR 1:200** – establishes a competitive grant program to provide funding to organizations which offer programs or services approved by CMS for the use of civil money penalties (CMP) funds, thereby establishing the CMP Fund Grant Program; **922 KAR 1:130 & E** – establishes the Kinship Care Program in Kentucky; **922 KAR 1:140 & E** – establishes the maximum number of children remaining in foster care longer than twenty-four (24) months, and establishes permanency services available to children in placement; **922 KAR 1:320 & E** – establishes procedures related to appeals and complaints for benefits and services under 922 KAR Chapters 1 through 5; **922 KAR 1:400 & E** – establishes standards for provision of supportive services to a family receiving ongoing case management services or to safely maintain a child in the child's home through the cabinet, to the extent funds are available; **922 KAR 2:020** – establishes procedures for improper payments, claims, and penalties used by the cabinet in the administration of the Child Care Assistance Program (CCAP); **922 KAR 2:090** – establishes licensure standards for a child-care center and describes the informal dispute resolution process; **922 KAR 2:100** – establishes minimum requirements intended to protect the health, safety, and welfare of children cared for by certified family child-care home providers; **922 KAR 2:110** – establishes standards for child-care centers; **922 KAR 2:120** – establishes health and safety standards for child-care centers; **922 KAR 2:160 & E** – establishes requirements that enable the Cabinet for Health and Family Services to qualify for federal funds under the Child Care and Development Fund, and establishes procedures for the implementation of the Child Care Assistance Program to the extent that funding is available; and **922 KAR 2:180** – establishes requirements for providers to participate in the Child Care Assistance Program and the application

procedures. A motion to approve the administrative regulations was made by Representative Burch, seconded by Senator Harper Angel, and approved by voice vote.

Barriers for the Delivery of Psychiatric Care

Kathryn Cohen, Legislative and Policy Counsel for the Treatment Advocacy Center in Arlington, Virginia, stated that the center seeks to remove barriers to treatment for people with severe mental illnesses such as schizophrenia and bipolar disorder. Court-ordered outpatient treatment or also known as assisted outpatient treatment (AOT) laws in Kentucky need to be improved by broadening the existing standard or creating a more flexible set of criteria, extending the duration of an outpatient order, and creating a safety net provision for those non-compliant with their treatment plan. Families are keenly aware of the enormous strides that medical science has made in recent decades to offer real hope of recovery to people with severe mental illness. But the key is to get those individuals under medical treatment. People who receive treatment for a severe mental illness are no more likely to engage in violence than anyone else. Treatment is the key to maintaining strong bonds with friends and family, as well as avoiding hospitals and jail. The primary reason treatment for a family member in psychiatric crisis is a challenge is an anatomical brain condition that afflicts many people with schizophrenia and severe bipolar disorder, anosognosia. People with anosognosia simply are unable to recognize their own illnesses no matter how painfully obvious it may be to everyone around them, and they often reject all efforts to get themselves into treatment.

Court-ordered outpatient treatment requires that individuals with severe mental illness adhere to a prescribed treatment plan as a condition of living in the community. One of the main goals of outpatient treatment for people with severe mental illness is to facilitate more consistent adherence to treatment when the person is unable to seek and voluntarily comply with treatment. Typically, treatment combines a court order and a comprehensive treatment and services plan. The court's role and the legal procedures related to outpatient commitment laws vary from state to state.

In 2012, the federal Department of Justice certified assisted outpatient treatment as an evidence-based practice for reducing crime and violence. A study in New York documented that AOT recipients experienced fewer hospitalizations, homelessness, arrests, and incarceration. A 2010 Columbia University study found that individuals under outpatient commitment who were more violent to begin with were four times less likely than those without a commitment order to perpetuate serious violence after undergoing treatment.

Court-ordered outpatient treatment laws exist in 45 states, including Kentucky. The current Kentucky standard applies to both inpatient commitment and outpatient commitment but judicial involvement is limited for the following reasons: (1) outpatient treatment is only available to individuals who meet the first three criteria in the statute for commitment, including (1) dangerousness; (2) the current time period for court-ordered outpatient treatment is too short, a maximum of 120 days; and (3) there is no consequence for non-adherence to an outpatient treatment order.

Ms. Cohen suggested three ways Kentucky can improve its laws would be either to broaden existing commitment standards or create a more flexible separate set of criteria for outpatient commitment, extend the duration of the outpatient treatment order to one year with an opportunity for renewal, and create a provision for non-adherence to the program as a presumptive ground for a need for evaluation so that individuals can immediately get the proper medical attention when they lapse from their plan. Improving the laws is a critical component to ensure timely and effective treatment for Kentucky's most vulnerable citizens.

Reggie Gentry, member of the Protection and Advocacy for Individuals with Mental Illness Advisory Council and retired Chaplin, stated that people with mental illnesses do better if not forced into treatment but given choices. An AOT order will put a stigma on people with mental illness. Motivational counseling is effective in a person's treatment and recovery. The mental health system would benefit from more peer support specialists, statewide drop-in centers, and re-establishment of day treatment centers in community mental health centers. People with mental health illnesses are no more harmful than people without mental illnesses.

Kelly Gunning, NAMI Lexington and parent, stated that mental illness affects the entire family, and it takes the entire community to help people with mental illnesses. A mental inquest is needed for court-ordered treatment. In order to create an opportunity for meaningful change it is of paramount importance to bring all stakeholders together to define and create the kind of mechanisms needed to ensure that individuals who experience the major life threatening and impacting systems of Serious and Persistent Mental Illness (SPMI) can access the level of care needed when they do not meet hospital admission criteria under 202A. Significant obstacles and barriers to care and issues which impact 201A and AOT include: (1) difficulty in obtaining hospital admissions; (2) stringent, subjective, and often misinterpreted admission criteria; (3) lack of payor source for hospitalization; (4) huge mental health parity issues; (5) lack of payor source for community-based services which narrows the options for care; (6) no standardized utilization across

the state of existing, potentially helpful statutory tools; and (7) negotiating and balancing civil liberty issues. Proposed opportunities for improvement are creating a point of contact action mechanism and using evidence-based practices.

Sheila Schuster, Advocacy Action Network and Kentucky Mental Health Coalition, stated that mental health issues cannot be solved by more money but by use of services. Medicaid does not reimburse the 200 consumers trained as nationally certified peer support counselors. Someone committed to a hospital needs representation in order to make sure the language of the agreed order is understood by the patient. Evidence-based criteria do not always work as well in rural areas. Everyone needs to work collaboratively to find solutions. The mental health advanced directive helps a provider know the wishes of the patient whether or not the patient is able to convey them. The balancing of the rights of persons with mental illness and the concerns of the family members are complex. Just because someone has a mental illness, it does not mean that they do not have rights. The mentally ill are no more likely to be dangerous than anyone else and are ten times more likely to be victimized by a violent crime than be the perpetrator.

Kim Wilkie, Fayette District Court Judge, stated that Decriminalize Mental Illness – Take Down The Wall Committee is working to get a mental health court established in Fayette County. Because some people have offenses in all of the courts, the mental health court, drug court, and veterans' court, a combined court would be ideal. Fayette County is in the process of establishing a drug court that would prevent an individual with a misdemeanor from going through an indictment process and have a felony record. The goal of the mental health court is to save lives and help families. Individuals with severe mental illnesses need help.

Ed Monahan, Chief Public Advocate, Department of Public Advocacy (DPA), stated that the Department of Advocacy has 32 public defender trials offices statewide that represents over 160,000 clients in District Court, Circuit Court, Kentucky Court of Appeals, and the Kentucky Supreme Court. The DPA has longstanding experience in representing persons with mental illness for drug offenses, penal code offenses, juvenile offenses, and involuntary commitments. Public defenders represent people facing a loss of liberty. Everyone has a constitutional right to freedom, including the mental ill. KRS 202A.026, Criteria for involuntary hospitalization, states that no person shall be involuntarily hospitalized unless such person is a mentally ill person: (1) Who presents a danger or threat of danger to self, family or others as a result of the mental illness; (2) Who can reasonably benefit from treatment; and (3) For whom hospitalization is the least restrictive alternative mode of treatment presently

available. Public defenders represent most individuals being proceeded against in a KRS Chapter 202A involuntary commitment proceeding. In fiscal year 2013, Kentucky public defenders were assigned to 3,479 cases statewide.

Keys to reducing the risk of violence by people with serious mental illness are providing aggressive and intensive case management, a comprehensive array of community support services, individual case managers with small caseloads, 24-hour availability of case managers, strong linkages to agencies providing mental health services, substance abuse treatment, social services, and intensive case managers. Specialty courts are a good way to address special problems more effectively but are a costly model. DPA has a successful alternative sentencing social worker program that is working for some clients with substance abuse issues, those who are mentally ill, juvenile cases, and some 202A cases. The DPA's social worker alternative sentencing program pilot was recognized as one of the 25 most innovative government programs in the country by the Ash Center for Democratic Governance at the Harvard Kennedy School of Government for 2013. Public defenders lower costly incarceration rates for counties and the state.

G.G. Burns, family member and Kentucky mental health advocate, stated that she is the mother of a 26-year old son who suffers with a neurological syndrome called anosognosia where he lacks insight into his own illness. People in crisis often treat the very people who love them the most the worse. Improving the outpatient standard will allow effective treatment for Kentucky's most vulnerable people instead of forcing them to jail. Legislation needs to be adopted that would help families have options for treatment before a tragedy occurs and provide for longer periods of care than 60 or 180 days. Incarcerations instead of treatment are bad public policy. The reason the current treatment law is not utilized is not due to lack of funding, but because it requires a person to meet inpatient civil commitment first before it is ordered. This almost never happens, because most patients are not held beyond seven days, even if they are admitted under KRS 202A, with a warrant. Treatment is better than incarceration and cheaper. Mental illnesses are the only diseases where patients are punished for their symptoms.

In response to a question by Representative Wuchner, Ms. Gunning stated that a CASA type program for someone with a mental illness has potential to help an individual navigate care. Ms. Cohen stated that the CASA program is very effective.

In response to a question by Representative Burch, Ms. Cohen stated that there are number of states that have implemented AOT effectively. Mr. Monahan stated Kentucky already has had a successful behavioral health model that was piloted in three locations.

Representative Benvenuti stated that there needs to be a full spectrum of opportunities available for individuals and families. The liberties of the victims have to be considered along with the liberties of the mentally ill person. Ms. Cohen stated that Kentucky should not hold the AOT hostage because of the lack of funds or until all of the aspects are resolved.

Michelle P. Waiver

Brien Shea, President, EGI Healthcare Marketing testified that he is a parent of a son with down syndrome who was part of the First Steps program until he was no longer eligible after the age of three years. Children should be eligible for First Steps until the age of 5 years. The more help available for children now will save money later. Early intervention is absolutely necessary. It takes too long for a case to be reviewed before a child can receive services. The process should be streamlined in order not to have gaps in necessary services.

Lisa Lee, Deputy Commissioner, Department for Medicaid Services (DMS), Cabinet for Health and Family Services, stated that the Michelle P. waiver serves approximately 9,260 individuals with a cap of \$10,000 per recipient. The administrative regulation stipulates that an individual has to meet the level of care and without the waiver services the individual would be admitted to an intermediate care facility or mental retardation facility. The Department for Behavioral Health and Intellectual Disabilities within the Cabinet for Health and Family Services is working with the Department for Medicaid Services to make sure Michelle P. waiver is administered properly.

In response to a question by Senator Denton, Betsy Dunnigan, Acting Commissioner, Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID), Cabinet for Health and Family Services, stated that when the waiver program was developed in response to the continually growing waiting list for Supports for Community Living (SCL) services. The majority of individuals on the waiting list did not need residential services at the time, but were on it because of possible future needs. The majority of individuals on the waiting list were adults, but over time more children needed services. The assessment tool utilized for the waiver program is an adult tool and not appropriate for children. The DBHDID has been looking at appropriate, tested, proven child assessment tools, and a recommendation will be given to DMS. The DBHDID will have the review completed and taken to the Commission on Services and Supports for Individuals with an Intellectual Disability and Other Developmental Disabilities (HB 144 Commission) around October 10, 2013. The intention is to have a consistent streamlined process for services.

In response to a comment by Senator Bowen, Acting Commissioner Dunnigan stated that the Medicaid waiver programs have federal requirements and criteria

and are established as an alternative to institutional care.

In response to a question by Senator Harper Angel, Acting Commissioner Dunnigan stated that the department has talked with other states about outcomes based on child assessment tools. The top recommendation along with an alternative recommendation will be taken to the HB 144 Commission.

Discussion of Referred Child Care Administrative Regulations – 922 KAR 2:020, 922 KAR 2:090 & E, and 922 KAR 2:160 & E

Randy Strause, Child Care Advocates of Kentucky, stated that proposed amendments to 922 KAR 2:090 & E and ordinary regulation and 922 KAR 2:160 & E and ordinary regulation establish a finding of fraud cause of action which would violate due process. Under 922 KAR 2:160 & E, Section 17, the cabinet can be the judge, prosecution, and executioner by automatically withholding government benefits from the Child Care Assistance Program (CCAP) recipients without affording them a constitutionally guaranteed opportunity to be heard. Judge Phillip Shepherd, Franklin Circuit Court, issued a temporary restraining order (TRO) against the Commonwealth and the cabinet. The TRO ordered the Commonwealth and the cabinet to be restrained and enjoined from implementing or enforcing the amendments in either 922 KAR 2:090 & E or 922 KAR 2:160 & E pending further orders of the court and from withholding CCAP payments from the named plaintiffs in the case until after the cabinet has fully complied with the requirements of KRS 13B.125 and KRS 199.896 to implement emergency action and to provide for an expedited hearing and appeal of any such action. The case has not been settled and the TRO is still in effect, and the due process and equal protection causes of action are still being litigated before the Franklin Circuit Court.

The terms intent or intentional and fraud are not defined nor given standards for application. Without explicitly defining the terms, those who administer the CCAP program have wide discretion in determining whether a provider is fraudulent. It is crucial that there is consistency of thought of definition in administering the regulations. Without clear definitions, the Commonwealth will displace children and families from quality child care centers because of ambiguous interpretations.

As the administrative regulation is written, it appears that a license may be automatically revoked due to an intentional program violation finding for a CCAP provider. This directly ties eligibility for a financial subsidy program to a license that is issued to protect the health, safety, and welfare of children. Further, it removes a licensure benefit from providers without affording them an opportunity to be heard and is a violation of day care service providers' due process.

The cabinet utilizes a CCAP Operations Manual to interpret regulations and statutes. The manual is not incorporated by reference into the regulations as required by KRS 13A.130, which states that an agency may not regulate by internal policy without the legislature's consent. The manual sets monetary limits on when the cabinet will refer fraud cases to the Office of Inspector General (OIG). Nowhere are monetary limits for fraud case referrals to the OIG codified.

The new DDC-94E form lists multiple children on one sheet for signing in and out. This allows other clients to know which children are physically in the center, the arrival and departure times of each student, who is dropping them off and picking them up, and their pattern of arrival and departure. This makes it impossible for providers to keep confidential information as required by 922 KAR 2:110, Section 3(2)(a) and (3).

The Child Care Advocates of Kentucky recommend that 922 KAR 2:020 ordinary regulations, 922 KAR 2:090 & E and ordinary regulation, 922 KAR 2:110 ordinary regulation, and 922 KAR 2:160 & E and ordinary regulation be amended to redact or revise the deficient provisions or withdraw and redraft the regulations in compliance with its requests and promulgate the redrafted versions.

Dr. Terry I. Brooks, Executive Director, Kentucky Youth Advocates, stated that the top three reasons to support Kinship Care in Kentucky are that it is better for kids, better for families, and better for taxpayers. As of April 1, 2013, no new families are allowed to participate in Kinship Care. Current families will be allowed to continue receiving support. CCAP helps families access quality child care. The program provides subsidies for parents that are working or receiving educational training. In Kentucky over 75,000 children receive the CCAP subsidy. On April 1, 2013, DCBS placed a freeze on applications for CCAP. On July 1, 2013, the department reduced the eligibility requirement for the program from the current 150 percent of the federal poverty level to 100 percent. Working parents may have to quit their jobs in the absence of quality child care. Parents that do continue to work may seek out caregivers that are unqualified or ill-equipped to care for a child and that puts children at risk of abuse or neglect. KYA recommends that the eligibility should be raised to 200 percent of the federal poverty level.

Representative Burch stated that the General Assembly did not allocate enough money because there was not enough money to fund every program.

In response to questions by Representative Benvenuti, Mr. Brooks stated that all daycare providers qualify for CCAP subsidies, even though there are some that provide lower quality care. Co-pays for CCAP are based on a parent's income.

Sandra Flynn, grandmother and Kinship Care recipient, stated that the Kinship Care program needs more money to help children placed in a family member's home because of abuse or neglect by the parent. Families depend on the money provided by the Kinship Care program to provide for the children placed in their care.

Christina Stopher, mother and Child Care Assistance Program recipient, stated that 80 percent of her salary goes to child care. If her CCAP funds are cut, she will be forced to have to quit her job and go on welfare, because being a single mom she would not be able to afford day care for her children.

Senator Denton stated that cuts in one program affect other programs.

Brooke Anderson, mother and Child Care Assistance Program recipient, stated that she is a single mother of three children and is employed at the Home of the Innocents. It is going to be hard to continue working without child care assistance. She said that she has worked very hard to better her own and her children's lives, and if she has to quit her job, it could mean that they have to go to a homeless shelter. It is not fair to her or her children.

Sharon Yelton, Children, Inc., mother and former Child Care Assistance Program recipient, stated that CCAP still works how it was intended to work. Parents do not want to have to worry about the quality of care for their children. She said that when her son was small she received child care assistance that allowed her to be able to go to college and get her degree. Daycare takes a huge amount of someone's salary. Cuts in child care assistance will end up costing more in the long run.

Adjournment

There being no further business, the meeting was adjourned at 3:48 p.m.

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 2nd Meeting of the 2013 Interim
September 6, 2013

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Judiciary was held on Friday, September 6, 2013, at the Kentucky National Guard's Joint Forces Operation Center, London, Kentucky. Senator Whitney Westerfield, Co-Chair, called the meeting to order, and the attendance was noted.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative John Tilley, Co-Chair; Senators Sara Beth Gregory, Ray S. Jones II, Jerry Rhoads, and Robin Webb; Representatives Robert Benvenuti III, Kelly Flood, Joni L. Jenkins, Mary Lou Marzian, Reginald Meeks, Darryl T. Owens, Tom Riner, Kevin Sinnette, and Ken Upchurch.

Guests: Congressman Hal Rogers, Kentucky 5th Congressional District; Dan

Smoot, President Operation UNITE; Chad Webb, UNITE Voucher Recipient, Pike County; Ronald Hatfield, J.D., Manager Health Information Solutions; Mark A. Fisher, M.S., State Opioid Treatment Administrator, Department of Behavioral Health & Intellectual Disabilities; Professor Robert Walker, M.S.W., L.C.S.W., UK Center on Drug and Alcohol Research; Van Ingram, Director, Kentucky Office of Drug Control Policy; Ed Monahan, Public Advocate, Kentucky Department of Public Advocacy; Dr. Henrietta Bada, Director of Kentucky Pediatric Research Institute, University of Kentucky; and Dr. Ruth Ann Shepherd, Director of Maternal and Child Health, Department of Public Health.

LRC Staff: Jon Grate, Matt Trebelhorn, Alice Lyon, Dallas Hurley, Nicole Straus, and Kathy Miller.

Congressman Hal Rogers

Senator Westerfield introduced Congressman Hal Rogers to Committee members and the audience. Congressman Rogers detailed the scope of the program Operation UNITE, an acronym for Unlawful Narcotics Investigations, Treatment and Education. Operation UNITE works to rid communities in 32 eastern Kentucky Counties of illegal drug use through undercover narcotics investigations, coordinating treatment for substance abusers, providing support to families and friends of substance abusers, and educating the public about the dangers of using drugs. UNITE's goal is to educate and activate individuals by developing and empowering community coalitions to no longer accept or tolerate the drug culture.

Congressman Rogers highlighted some substance abuse programs of Operation UNITE. They included Chad's Hope Treatment Center in Manchester, Ky., a treatment referral hotline of counselors offering information to callers, and a treatment voucher system that has assisted 3000 addicts. UNITE offers free counseling to children who have lost a parent to overdose. UNITE holds an annual summit, and the next national summit on prescription drugs will be in Atlanta. Congressman Rogers praised the results of House Bill 1 and noted the reduction in overdose deaths statewide. Of particular note were Clay and Floyd counties, which have experienced a 15 percent decline in deaths. He encouraged extending rehabilitation programs for addicts and to add treatment bed space. The Congressman believes treatment is the weak link in Kentucky's substance abuse programs.

Representative Marzian asked about the budget effects of sequestration and how the money can be replaced. Senator Webb and Senator Jones congratulated UNITE on its 10 years of success.

Chairman Westerfield introduced Major General Edward W. Tonini, Adjutant General and Kentucky Commanding General of the Kentucky Army and Air National Guard. General Tonini described the Air Guard mission,

marijuana eradication, and thanked the committee members and Congressman Rogers for their support.

Also present with Congressman Rogers were Mike Townsend and Don Ball of Recovery Kentucky, a network of housing and recovery centers. Each center uses a recovery program model that includes peer support, daily living skills classes, job responsibilities, and establishing new behaviors. Mr. Townsend elaborated on the call center and said the counselors are trained to take applications by phone for treatment vouchers. They distributed a pamphlet called "Your Road to Recovery." Mr. Townsend stated that the success rate of treatment is not 100 percent, but participants are given tools to fight addiction that last a lifetime.

Operation UNITE

Dan Smoot, President Operation UNITE introduced his guest Chad Webb. Mr. Webb credited Congressman Rogers and UNITE for his life-saving treatment for addiction in 2005. Mr. Webb was offered treatment at Westcare, a residential substance abuse treatment facility in Eastern Kentucky, with a voucher from UNITE. Congressman Rogers and UNITE were instrumental in opening Westcare. Today he is a grateful recovered addict and father of 5.

Mr. Townsend said that Recovery Kentucky operates five men's treatment centers and five women's treatment centers, and four model centers. They offer an "opportunity, not a guarantee" of recovery.

Senator Webb congratulated Mr. Webb and thanked him for his presentation to the committee.

Monitoring prescription drugs

Ron L. Hatfield, J.D., Manager, Health Information Solutions, was introduced to the committee. Mr. Hatfield presented a PowerPoint, "Fighting Crime with Cutting-Edge Technology: Monitoring Prescription Drugs." Mr. Hatfield described the PMP InterConnect, PMP AWARDx, and Drug Diversion Suite programs. PMP InterConnect facilitates the interstate sharing of Prescription Monitoring Program (PMP) data to authorized users. InterConnect links state PMPs, providing a more effective means of combating drug diversion, while maintaining state autonomy. PMP AWARDx is a joint undertaking between Appriss and the National Association of Boards of Pharmacy to provide a "next generation" of PMP software creating a simplified and integrated reporting system.

In response to a question from Representative Flood, Mr. Hatfield clarified that the new programs are in place to facilitate the uniformity of prescription monitoring from state to state.

Drug Assessment and Treatment Needs and Capacity Across the Commonwealth

State Opioid Treatment Administrator for the Department of Behavioral Health, Developmental and

Intellectual Disabilities, Mark A. Fisher, M.S. was next to testify. He was joined by Professor Robert Walker, M.S.W., L.C.S.W., UK Center on Drug and Alcohol Research and Van Ingram, Director, Kentucky Office of Drug Control Policy. Mr. Fisher presented “Substance Abuse Treatment in Kentucky.” The presentation listed client and bed information for each of the 12 state treatment centers. This included the numbers of available beds for adolescents and adults and also the waiting period for treatment. Senator Westerfield was concerned by the lack of treatment availability for adolescents. In response, Mr. Walker said the major obstacle was that Kentucky is one of only seven states with no outpatient substance abuse treatment benefit through Medicaid. Funding is from state General funds, \$8,929,000 for FY12, and federal Substance Abuse Prevention and Treatment block grant funds of \$21,153,475.

Representatives Flood, Marzian and Benvenuti, and Senator Webb voiced concerns on the limited treatment options for substance addicted adolescents.

Mr. Walker said that adolescent treatment centers in Kentucky have 28 beds available for males and 12 for females. Of the 290,000 Kentuckians who meet the criteria for substance abuse/dependence, 15,390 are being treated. In response to questions from Senator Jones and Representatives Tilley and Jenkins, Mr. Walker stated that the Jefferson County Jail is the largest detoxification program in the state.

Mr. Walker then presented on “Availability and Access to Care.” He discussed barriers to access: a poorly publicized search engine on the DBHDID website, impaired mental process of addicts that affect treatment seeking, and speed of response from screening and appointment calls to treatment centers. Treatment access needs to be easy and rapid in order to have better effectiveness. He suggested that the Cabinet for Health and Family Services should be involved.

DPA Alternative Sentencing Social Worker Program

Professor Walker and Ed Monahan, Public Advocate, Kentucky Department of Public Advocacy testified. Mr. Monahan read written testimony from Judge Dan Kelly, 11th Judicial Circuit Judge, who was unable to attend the meeting, about the value of DPA social workers. Mr. Walker then presented “Alternative Sentencing Social Worker Program.” The program was recognized as one of the 25 most innovative government programs in the country by the Ash Center for Democratic Governance at the Harvard Kennedy School of Government. Mr. Monahan said from a public defender standpoint, “what is needed is a plan that delivers a more secure and lasting liberty interest for defendants BUT that also satisfies a public safety interest.” The DPA will facilitate client buy-in to diversion using motivational interviewing. A pilot study was conducted to examine the likely

outcome of a social worker diversion program that showed that, for every \$1.00 spent on social worker alternative sentencing services, there is a \$4.47-\$6.80 savings. Mr. Monahan asked that one social worker be placed in every Public Defenders office across the state. Senator Westerfield commented on advantage of having the program. Senator Webb made a statement on pretrial assessment. Senator Rhoads suggested that the committee examine means to continue criminal mediation programs as the Senior Status judge program comes to an end.

Drug Addicted and Dependent Babies

Dr. Henrietta Bada, Director of Kentucky Pediatric Research Institute, University of Kentucky and Dr. Ruth Ann Shepherd, Director of Maternal and Child Health, Department of Public Health, testified about National Abstinence Syndrome (NAS). During a PowerPoint presentation, the “Impact and Implications in Kentucky,” the doctors detailed the grave and complicated nature of maternal opiate use and NAS. Some of the issues covered were hospitalization, treatment, pre-natal care, post-discharge needs, and risk factors for child victims of abuse/neglect with the risk factor of substance abuse present in the home. Addicted mothers create an unsafe environment of toxic stress to their babies. Dr. Shepherd and Dr. Bada encouraged the committee to expand behavioral treatment to stabilize mothers, minimize risk, and mitigate bad outcomes.

Representative Benvenuti asked Dr. Bada and Dr. Shepherd if addicted mothers were typically unwed with criminal records. Dr. Shepherd said the study did not track this data.

The meeting was adjourned at 3:53 p.m.

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY
Minutes of the 3rd Meeting of the 2013 Interim
September 10, 2013

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Labor and Industry was held on Tuesday, September 10, 2013, at 2:30 PM, in Room A of the Convention Center at Kentucky Dam Village State Resort Park. Representative Rick G. Nelson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Rick G. Nelson, Co-Chair; Senators Julian M. Carroll, Perry B. Clark, Ernie Harris, Jimmy Higdon, Dennis Parrett, and Mike Wilson; Representatives Lynn Bechler, Denver Butler, Will Coursey, Jeffery Donohue, C.B. Embry Jr., Richard Henderson, Dennis Horlander, Joni L. Jenkins, Adam Koenig, Mary Lou Marzian, Charles Miller, Terry Mills, Tanya Pullin, Tom Riner, Jim Stewart III, and Brent Yonts.

Guests: Secretary Thomas O.

Zawacki, Education and Workforce Development Cabinet; Commissioner Beth Brinly, Department of Workforce Development; Commissioner Dwight Lovan, Department of Workers’ Claims; Doug Gott, Administrative Law Judge; Secretary Larry Roberts, Kentucky Labor Cabinet.

LRC Staff: Carla Montgomery, Matt Ross, Adanna Hydes, and Betsy Nickens.

Co-Chair Nelson welcomed the committee members and attendees of the 36th annual Labor-Management Conference. The minutes of the meeting held on July 18, 2013, were approved by voice vote. As the elected representative from Marshall County, Representative Coursey thanked the members for their continued support of the Kentucky Labor-Management Conference, held at Kentucky Dam Village State Resort Park in Gilbertsville.

Unemployment Insurance Update

Secretary Zawacki, Education and Workforce Development Cabinet, along with Commissioner Beth Brinly, Department of Workforce Development, testified about the status of the unemployment insurance trust fund. Commissioner Zawacki explained that Kentucky’s unemployment insurance system had been relying on the accumulated trust fund balance to pay out benefits, but on January 28, 2009, contributions from employers were no longer sufficient to pay claims. Kentucky was the sixth state to borrow federal money to pay unemployment insurance claims. In March 2009, Governor Beshear created a task force to deal with bringing the trust fund back into solvency. Commissioner Zawacki stated that recommendations from the task force, codified in House Bill 5 (2012 Special Session), have been implemented. In 2012, contributions exceeded claims. Through a joint effort with the Division of Unemployment Insurance, the Cabinet Office of Technology Services, and the Commonwealth Office of Technology, a third party consultant recommended 60 improvements to process and procedures titled, “The Business Process Efficiency and Effectiveness Report.” Twenty of the recommendations to improve efficiency and morale have been implemented, the remaining 40 recommendations are being considered in order of priority.

Over \$7.5 million from delinquent claimants and employers has been recovered through the federal treasury offset program initiated in 2013. In 2014, the program will begin to intercept payments made through travel reimbursements from employers who are delinquent. Commissioner Zawacki stated the cabinet is on target to pay all federal Title XII advances by 2017, five years earlier than originally anticipated. The cabinet expects to lower the federal unemployment insurance loan by over \$162 million in 2013, bringing the balance to \$675 million. The original loan was \$1 billion.

New Procedures for Medical Fee Disputes

Commissioner Dwight Lovan of the Department of Workers Claims and Doug Gott, Administrative Law Judge (ALJ) testified about new procedures for litigation in medical disputes. Commissioner Lovan said medical fee disputes have been an area of concern for the department for several years. In January 2013, a panel of attorneys and physicians made recommendations to deal with the growing number of medical disputes. All medical disputes have since been assigned to two administrative law judges. Judge Doug Gott, an ALJ assigned specifically to medical disputes, said the new procedures have expedited the tremendous volume and made the litigation much easier to navigate for claimants. Medical providers involved in a claim are now involved in the litigation process. The result has been more efficient and less costly for all involved.

Labor-Management Relations and Apprenticeship and Training

Secretary Larry Roberts, Kentucky Labor Cabinet, thanked the committee for taking part in the Labor-Management Conference. The Apprenticeship and Training Conference, which was first held in 1959 has been a lead-in to the Labor-Management Conference since 2000. Growth of the apprenticeship conference has been impeded by the success of the larger labor-management group and the decision has been made to move the conference to another location in order to expand participation.

Secretary Roberts discussed the participation of the Economic Development Cabinet, the Education and Workforce Development Cabinet, and the Office of Career and Technical Education in initiating the Tech Ready Apprentices for Careers in Kentucky (TRACK) program. Piloted in 11 Kentucky school districts, the program identifies students for the program and employers within the community commit to developing registered apprenticeship programs. Secretary Roberts said the Labor Cabinet will seek legislation in 2014 to modify the apprenticeship statutes in KRS 343 in order to comply with the changes that have been adopted by the federal government.

Representative Miller commended the TRACK program and Senator Carroll spoke about the importance of trained and qualified career ready graduates.

There being no further business the meeting adjourned.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS
Minutes of the 3rd Meeting of the 2013 Interim
September 16, 2013

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Licensing and Occupations was held on Monday, September 16,

2013, at 10:00 AM, in the Club House at Keeneland Race Course. 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 Denise Harper Angel, Jimmy Higdon, Christian McDaniel, Morgan McGarvey, R.J. Palmer II, Dan “Malano” Seum, and Damon Thayer; Representatives Tom Burch, Denver Butler, Larry Clark, Jeffery Donohue, David Floyd, Dennis Horlander, Joni L. Jenkins, Reginald Meeks, Brad Montell, David Osborne, Darryl T. Owens, Ruth Ann Palumbo, Sal Santoro, Arnold Simpson, Diane St. Onge, Ken Upchurch, and Susan Westrom.

Guests: Rusty Cress, Bert May, Dinsmore and Shohl LLP; Chris Calabucci, Elite Professional Education; John Ward, Executive Director, Marc Guilfoil, Director of Racing, Mary Scollay, DVM, Equine Medical Director, Jamie Eads, Director of Incentives and Development, Greg Lamb, Supervisor Pari-Mutuel Wagering, Kentucky Horse Racing Commission.

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 12, 2013 meeting was made by Representative Burch and seconded by Representative Westrom. The motion was carried by voice vote.

Welcome to Keeneland

Vince Gabbard, Vice President of Keeneland, welcomed members to the racecourse noting that the meeting was taking place in the original Club House structure. He noted that while Keeneland is well known for its racing and is the largest thoroughbred auction house in the nation, with over 52 countries represented at the September Yearling Sale. Mr. Gabbard told members that there would be a tour of the racecourse after the meeting.

Continuing Education for Hairdressers, Estheticians, Cosmetologists, and Nail Technicians

Rusty Cress, Dinsmore & Shohl LLP, said that HB 311, passed in the 2012 regular legislative session, eliminated the requirement of continuing education for licensees under the Board of Cosmetology and Hairdressers. The continuing education system was said to be working poorly, but bill did not establish new criteria. Currently, hairdressers, estheticians, cosmetologists, and nail technicians are operating salons without any continuing education requirement. The issue is the reinstatement of a continuing education requirement and appropriate changes to the system.

Chris Calabucci, Elite Professional Education, said the main concern with the lack of continuing education is the rise in infections in the community. Sanitation is a major issue in salons. It is important for instructors to be current on proper

practices in order to teach licensees. Former problems with delivery of continuing education can be addressed so that the integrity of the education can be maintained. Elite Professional Education still administers continuing education to licensees in Kentucky who voluntarily maintain current practices in preventing the spread of community-based diseases.

Rusty Cress told members that reinstatement of the continuing education requirements would include two hours dedicated to public health, sanitation, and safety education. These requirements were not in the previous law. The industry uses instruments that require proper sterilization. New legislation should exempt a licensee who has reached the age of 60 or who has maintained an active license for 30 years from continuing education requirements. Home study courses, such as an internet-based class or a correspondence class, would still be acceptable. There will be a proposal to allow the board to contract with a third party administrator to perform the continuing education program.

In response to a question from Senator Schickel, Mr. Cress said there has been a meeting with the sponsor of HB 311 RS12 and with the board to begin discussions to try to reach a consensus.

In response to a question from Representative Montel, Mr. Calabucci said the new proposal would require eight hours annually, which is two more than the previous requirement.

Representative Floyd commented that the need for an increase in the number of hours falls flat when there is a clause that relieves some licensees due to experience.

In response to a question from Senator Higdon, Mr. Cress said the current draft only reinstates the continuing education requirement. Inspection by the County Health Department can be added. Currently the board inspects salons and seems to be doing a good job.

In response to a question from Representative Clark, Mr. Calabucci said his business, Elite Professional Education, provides continuing education credit through correspondence and on-line. Fees in Kentucky are \$17.95 for six hours, and \$29.95 for instructors’ continuing education.

In response to a question from Representative Jenkins, Mr. Calabucci said his company offers training on recognizing the signs of domestic violence. That training is currently being offered in Florida.

In response to a question from Representative Owens, Mr. Calabucci said that there is anecdotal information regarding outbreaks of infections stemming from nail salons and other industry sources. Bert May said that most cases are not reported to the health department either by the salon or individuals. Regarding fees, the recommendation is for the board to charge a fee to providers that have been approved to provide continuing education.

In response to a question from Representative St. Onge, Mr. Calabucci said his company provides a certificate of completion of continuing education.

In response to a question from Representative Horlander, Charles Lykins, Executive Director, State Board of Cosmetology, said there are 21,200 active or inactive cosmetology practitioners, 3,400 nail technicians, and 350 estheticians in the state.

Representative Keene said he views continuing education as a way for professionals to stay up-to-date in their profession.

Kentucky Horse Racing Commission update

Jamie Eades, Director of the Division of Incentives and Development, said that there are three separate funds that are paid from the 6 percent sales tax charged when a stallion is bred to a mare in Kentucky. The money is divided with 80 percent going to the thoroughbreds, 13 percent to standardbreds and 7 percent to the non-race breeds. There are 11 breeds participating in the non-race breeds program.

The thoroughbred industry has been flat in recent years; however, Kentucky continues to lead in breeding and racing. This year the estimated number of mares bred in Kentucky is 15,000. In 2012, 30 percent of North American foal crop came from Kentucky. This year the breeder incentive fund deadline has been extended. There are 7,687 mares nominated to the program and more applications are being processed.

Last year the regulation for eligibility was changed so that horses racing out-of-state could be awarded funds. Also, during the past two years, the fund has been co-mingling its marketing funds with the Kentucky Thoroughbred Owners and Breeders Association. This allows the fund to advertise its benefits to a larger area. Since 2006, over \$87 million has been paid to breeders.

The standardbred program uses its 7 percent to fund the Kentucky Sire Stakes. This program concludes in September at the Red Mile with trophy presentations by the Governor and First Lady. Horses that participate in this program are sired by stallions standing in Kentucky. *Tops in Lexington* will feature a story on the history of Red Mile, showcasing the Sire Stakes as the richest stakes in North America.

During the last legislative session, the General Assembly passed SB 110, allowing standardbred horses foaled by resident mares, regardless of whether they are sired by Kentucky stallions, into the program. This is expected to grow the program by making more horses eligible to enter the Sire Stakes.

In the non-race breeds program, the Kentucky Quarter Horse Breeder Incentive Fund has seen an increase in horses participating in their show category. The Walking Horse Breeder Incentive Fund has experienced an increase in new

owners participating and is one of the largest breeds participating in the non-race program. The saddlebred program has increased by 20 percent this year.

In response to a question from Representative Montel, Ms. Eads said that the breeding activity is flat, even though Kentucky continues to lead in the percentage of horses bred nationally. The average award looks different because of the change in regulation allowing more horses to participate. The dollar allocation is the same, but since it no longer matters where a race takes place, more horses are receiving awards.

In response to a question from Senator Higdon, Ms. Eads said that every time a stallion is bred to a mare in Kentucky there is a 6 percent sales tax. This money is allocated to the Breeder Incentive Fund. Because thoroughbreds are the predominate breed, they get a larger percent in the split.

Greg Lamb, Supervisor of Pari-mutuel Wagering, said the handle for historic racing continues to go up with a record \$2 million wagered this last Saturday. Kentucky Downs purses have increased from \$750,000 to \$450 million in two years, based on revenue generated from historic racing at the track. From January 1 to December 31, 2013, machines will handle a projected \$300 million. Ellis Park’s handle on historic racing was up during its live meet.

In response to a question from Representative Clark, John Ward, Executive Director of the KHRC, said he has had no direct conversation with other Kentucky racetracks about adding historic racing after the court has ruled on instant racing. He noted that Ellis Park is near a mature gambling market, and historic racing has not been as well received there. Mr. Lamb said that some tracks are considering building a track near Corbin. They are considering buying the license of Thunder Ridge and moving that license to Corbin, adding a historic racing facility at that track.

Mary Scollay, DVM, Equine Medical Director said that during the past 11 months commission veterinarians have administered Furosemide to 12,000 horses, with four administration errors by commission veterinarians in the first five weeks of the program. This resulted in two scratch starts. Due to these errors the commission changed the protocol for race day administration. Today there is a Salix Coordinator, who monitors activities of the veterinarians to ensure horses are treated on time and appropriately. There is a master treatment sheet that is reviewed by all veterinarians with the coordinator. The veterinarians have radios to communicate with each other and the coordinator in case of questions. Before a veterinarian treats a horse he notifies the Salix Coordinator, therefore if there has been a change the treatment can be stopped before administration. Color coded tags are placed on stalls with a different color for each day to eliminate

confusion regarding treatment for each day. A treatment sheet with detailed information on each horse is available for review each day.

Since the commission began the program, horses that are sent to the test barn after races have shown a Lasix concentration slightly less than 30 percent. This tells the commission that previously Lasix was being administered too close to race time, as close as an hour before race time. Now, after the regulation, Lasix is administered four hours prior to a race. The range of concentration has narrowed as well, suggesting that supplemental injections given after the four hour deadline have stopped.

The benefits of this program are to the wagering public, who get accurate medication information. Ship-in horses arrive on time to get their Lasix four hours before their race. There is enhanced security in the barn to stop prohibited practices prior to races. Horses that arrive after the four hour deadline are given the opportunity to race without Lasix and the public is notified. Horsemen have the assurance that all horses are given medication in a fair manner. Soundness evaluations, assessment of exercise history, and review of race video replays help determine risk factors and have reduced racing fatalities. An Equine Mortality Review panel has been formed to collect information when a horse is fatally injured on a racetrack.

HFL Sports Science, a laboratory in Lexington, does drug testing for the commission and has received its accreditation. A rapid response protocol has been established giving the commission the ability to promptly initiate a strategic response to substances reported as emerging threats to the integrity of competition.

In response to a question from Representative Meeks, Dr. Scollay said she would compile the total number of starts in North America last year, the projected number of starts for Kentucky this year, and total number of starts in Kentucky last year, and send them to him. There has been a high level of compliance from the veterinarians with the regulation, and there have been no penalties.

In response to a question from Representative Westrom, Dr. Scollay said 97 percent of race horses are still receiving Lasix. It is age specific with fewer of the younger horses using race day medication. In Europe Lasix is not permitted during racing; however, it is permitted and used during training.

In response to a question from Representative St. Onge, Ms. Eads said that in 2011 and before, more money was allocated in Kentucky to fewer horses. Before the regulation change, a little over half of the money was allocated to races won in Kentucky, and to a smaller horse population.

Senator Thayer said that the Breeders Incentive program changed the regulation in 2012 to reward breeders, no matter

where their horses go.

Representative Clark thanked the KHRC for changing the dates of the Churchill Downs calendar to accommodate racing in September.

In response to a question from Senator Seum, Dr. Scollay said Lasix reduces blood pressure by diuresis and, even though the cause of exercise-induced pulmonary hemorrhage has not been determined, it has been shown that by reducing the horse's blood pressure the occurrence of this hemorrhaging is decreased. Use of Lasix became popular in the late 1970s to help the horse. However, it has also been identified as a performance enhancer.

In response to a question from Representative Burch, Dr. Scollay said the regulation that went into effect last fall eliminated the use of adjunct bleeder medications that had been permitted in Kentucky. Since then, there has not been an increase in the number of horses bleeding on the racetrack.

Represent Osborne commented that he has been skeptical of the race day administration policy. He said he was unsure the commission was prepared to implement the policy, adding there was a lack of regulations and policies in effect to adequately give guidance to the process. The problems were recognized and addressed quickly and listening to horseman's concerns have made the policy effective. He said the industry should not lose sight of what was best for the equine athlete.

Senator Thayer recognized trainer Buff Bradley and congratulated him on Groupie Doll's track record setting performance during her last race in Pennsylvania.

Representative Keene informed members that the next committee meeting will be October 11, at 10:00 AM in Room 129 of the Capitol Annex. The topic for the meeting will be Advanced Practice Registered Nurses.

There being no further business to come before the committee, and with a motion and second, the meeting was adjourned at 11:32 AM.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

**Minutes of the 3rd Meeting
of the 2013 Interim
September 5, 2013**

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, September 5, 2013, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators Joe Bowen, Chris Girdler, Bob Leeper, John Schickel,

Brandon Smith, Johnny Ray Turner, Robin L. Webb, and Whitney Westerfield; Representatives Hubert Collins, Tim Couch, Keith Hall, Stan Lee, Reginald Meeks, Tim Moore, Marie Rader, John Short, Kevin Sinnette, John Will Stacy, Fitz Steele, Jim Stewart III, and Jill York.

Legislative Guests:

Representatives David Floyd, Dennis Horlander, James Kay, Kim King, Tom McKee, and Terry Mills.

Guests: Jim Scheel, Geordie Robinson, Williams; Allen Kirkley, Boardwalk Louisiana Midstream; Mike McMahon, Boardwalk; Jeff DeRouen, Public Service Commission; Secretary Len Peters, Energy and Environment Cabinet; Andrew McNeill and Bill Barr, Kentucky Oil and Gas Association.

LRC Staff: Tanya Monsanto, Stefan Kasacavage, and Kelly Blevins.

Noting the presence of quorum, the chair asked for a motion on the July 5, 2013 meeting minutes. After a motion and a second, the minutes were approved. Senator Carpenter stated that this is the first of several meetings on this topic.

The Bluegrass Pipeline by representatives of Williams and Boardwalk

Jim Scheel, Senior Vice President for Williams; Geordie Robinson, Lead Project Development for Williams; Allen Kirkley, President, Boardwalk Louisiana Midstream; and Mike McMahon, Senior Vice President and General Counsel for Boardwalk identified themselves for the record. Mr. Scheel stated the Bluegrass Pipeline will transport natural gas liquids (NGLs) from the states in the northeast to Texas and Louisiana. There will be three segments of pipe: new pipe from the northeast into an area near Hardinsburg, Kentucky; a segment of a repurposed Texas Gas Transmission line already situated in Kentucky; and a new segment of line into the petrochemical complexes in Sulfur Springs, Louisiana.

Natural gas liquids (NGLs) are the liquids in an enriched gas stream that contains hydrocarbons of ethane, butane, isobutene, propane, and pentane. The Bluegrass Pipeline will be an open access, common carrier engaged in interstate commerce. Natural gas liquids will be fractionated, meaning specific gases will be separated and then sold to the public. The Bluegrass Pipeline is important to energy independence and will be part of a process of increasing the supply of natural gas to the nation. The pipeline is the safest and best way to transport NGLs.

Williams and Boardwalk have a long history and vast experience with all phases of natural gas production and transport. Williams operates 1,500 miles of interstate pipe, 1,400 miles of NGLs, and 10,000 miles of gathering lines. Boardwalk Pipeline Partners, LC owns Texas Gas Transmission, which is headquartered in Owensboro, Kentucky. The company services over 30 gas

utilities, municipalities, electrical power generation, and industrial customers. Combined, Williams and Boardwalk provide over 25 percent of the nation's natural gas transportation.

Mr. Scheel described the general route of the pipeline, which has not been finalized, and how construction will impact the citizens. Williams and Boardwalk are looking to acquire 180 miles of right-of-way in the Commonwealth for new pipe. The company is talking to landowners, and payments to citizens for right-of-way are estimated to total between \$30 million to \$50 million. Other financial benefits to the Commonwealth include \$136 million in new tax revenues over the next ten years. Jobs will be generated from construction and operation of the pipeline, and secondary economic benefits will accrue from increased NGL production nationally. The pipeline will be subject to federal and state regulations. Federal interface will be through United States Army Corps of Engineers, Kentucky Environmental Protection, Kentucky Historical Commission, and the Kentucky Department of Fish and Wildlife Resources. Karst issues are important, and the company will work with federal and state regulators to build a safe and effective system.

In response to a question about whether the company has the right of eminent domain, Mr. McMahon said the company is a common carrier that transports oil and gas products for public service under the Kentucky statutes. The public service is that the pipeline removes bottlenecks in the interstate system of transport of natural gas to the nation. The increased production and supply of natural gas improves the general welfare of the Commonwealth, and that is how Williams and Boardwalk define their public service.

In response to a question about how much the company will pay a landowner for the land and whether Williams and Boardwalk would be pursuing the pipeline project if Kentucky was still burning coal, Mr. Scheel said that the amount paid will be predicated on the conditions of the land. Mr. McMahon added that the company uses an appraisal process that will generate a value as the basis of the offer. Mr. Scheel said that the company would still pursue the project regardless of Kentucky's coal use.

In response to concerns posed by a legislator over the way Williams and Boardwalk has approached landowners using aggressive tactics and trespassing on land and questions about land use, safety, and operation, Mr. Scheel stated that the company should ask permission to be on the land. There would be a 50 foot permanent easement and a 100 foot temporary work space easement. The easements can vary depending on the features of the land, but afterwards there would be likely restrictions on above ground structures and heavy equipment use. The line depth is three feet but might increase depending on mitigation and use

of land afterwards. The line is expected to be in use by the summer of 2015. It should take two to three months to complete construction on a landowner's parcel of land. Safety begins in determining the proper route, protecting the environment, water, and habitat, and ensuring that the design meets specifications.

In response to questions about where Williams and Boardwalk presently own lines, construction and safety, Mr. Scheel stated the company has lines around the nation. There are specifications on the project for compaction and grade to prevent settlement. He described a leak that occurred in Colorado as a quick company response to self-reported leak.

In response to a question about how the line would spur economic development and comments about how the company is a good citizen in Owensboro, Mr. Scheel stated that low cost energy will help Kentucky maintain its economic advantage and competitive position. West Lake has sought expansion and will be a new customer of Williams and Boardwalk.

Implications of the Bluegrass Pipeline by the Energy and Environment Cabinet

Len Peters, Secretary for the Energy and Environment Cabinet, and Jeff DeRouen, Executive Director for the Public Service Commission discussed the economic and environmental impacts and the regulatory controls and oversight of the Bluegrass Pipeline respectively. Secretary Peters commented on the interrelationship between the public anxiety over the NGL line and the needs of the nation for natural gas. Kentucky lacks wet natural gas liquids, which have lucrative commercial uses and spans all sectors of the economy, but companies will want to move it through Kentucky. EEC has an obligation to protect human health and environment via permitting, monitoring, inspections, and enforcement. Permitting is in the construction phase but what it will be used or carrying will not be under EEC authority. It is not certain what authority federal authorities have over the pipeline at the beginning of construction, monitoring, and intended use of the pipeline. Oversight could fall to multiple agencies at the state level but it would not eliminate risk, but there would be more transparency. Citizen response is overwhelming, and EEC has responded that it does not have authority to stop a legally allowable activity. Questions over transportation of these oil and natural gas products will grow in all areas of transportation infrastructure. The office of the General Counsel for EEC thinks that the pipeline does not have eminent domain under Kentucky statutes.

Regulation of natural gas lines by the Kentucky Public Service Commission

Jeff DeRouen discussed the role of the Public Service Commission and sources of state, local, and federal authority. The Public Service Commission has no role in the regulation of facilities proposed by the

Bluegrass Pipeline. Conversion of existing facilities such as natural gas transmission lines falls under the purview of the Federal Energy Regulatory Commission (FERC). The PSC implements the statutes, rules and regulations passed by the General Assembly. There are three areas of concern: construction, rates and service, and safety.

Regarding interstate NGL lines, the PSC has no jurisdiction. With respect to construction of the NGL line, there is no PSC jurisdiction. Because the line is interstate, it falls under the United States Constitution's Commerce Clause and is not subject to state-specific regulation. States can regulate some aspects if not unduly burdensome such as the Kentucky State Board on Electric Generation and Transmission Siting (Siting board). Mr. DeRouen then discussed the history and function of the Siting board. With respect to rates and service, the PSC does not have jurisdiction because the pipeline is not a utility. FERC does not determine the need, siting, abandonment, or conversion of the NGL line.

With respect to safety, primary responsibility for investigations and regulation rest with the federal pipeline and hazardous material safety administration (FMSA). The PSC is responsible for enforcing safety regulations through an agreement with FMSA for intrastate natural gas facilities in Kentucky both transmission and distribution. The PSC does not regulate the safety of interstate natural gas transmission lines or any pipeline carrying hazardous liquids such as NGLs. That jurisdiction rests solely with FMSA. The Bluegrass Pipeline does not fall under any regulatory jurisdiction of either the PSC or the Siting Board.

Senator Carpenter requested that the Secretary of the Energy and Environment Cabinet submit the research on eminent domain to committee staff. Secretary Peters agreed.

In response to a question about revenue from the Bluegrass project, Secretary Peters said that it is a better question to be posed to Williams and Boardwalk. However, the benefits from this project are diffuse. Mr. DeRouen added that FERC has responsibility over rates and service for some portions of the NGL line. Otherwise, the Interstate Commerce Act governs this project rather than the Natural Gas Act.

Opposition to the Bluegrass Pipeline by Kentucky Resources Council

Tom Fitzgerald, Executive Director the Kentucky Resources Council described the Kentucky Resources Council and the work that the council has been doing with landowners. While there are benefits to the pipeline, there are additional risks and burdens to specific areas depending on where the pipelines are located in the production and transportation process of NGLs. Mr. Fitzgerald addressed three areas of concern: the absence of any comprehensive advanced review of the

routing of NGL pipelines; the need for clarity in who has eminent domain; and the lack of initiative taken by the Energy and Environment Cabinet to enforce statutes and regulations governing natural gas and natural gas products.

First, the argument that pipelines are the safest method of transporting hazardous liquids is incorrect because safety is predicated on counting the number of incidents rather than the severity of those incidents. NGL pipelines when breached have more severe public safety problems than any incidents by truck or rail. Second, the Kentucky Resources Council agrees with the Office of the Attorney General, EEC, and several state attorneys that the Bluegrass Pipeline does not have eminent domain under Kentucky law. However, the statutes need to be clarified so that the threat of the use of eminent domain is made clear to the public and citizens that non-utilities do not have the power of condemnation. Finally, EEC has failed to issue regulations on gathering lines which the General Assembly required in earlier sessions, and it reflects a reluctance to address the issue now. If EEC, acted then this situation might not have occurred because standards would be in place, and the EEC can act now.

In response to a question about options to move NGLs to markets and which is the safest, Mr. Fitzgerald said that NGLs can be moved by pipeline, railroad or truck. One can build fractionalization nearby, too. Rail is the safest. Safety must be measured by looking at both number of incidents and the magnitude of the incidents.

Bill Barr and Andrew McNeil with Kentucky Oil and Gas Association (KOGA) discussed recent research commissioned by KOGA on the oil and gas industry in Kentucky. Mr. Barr and Mr. McNeil discussed the economic benefits of the oil and gas industry and the way that the NGL line fits into that picture.

There being no further questions, after a motion and a second, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 3rd Meeting of the 2013 Interim

September 3, 2013

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Transportation was held on Tuesday, September 3, 2013, 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. A quorum was present, and the July 22, 2013 meeting minutes were approved.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators Jimmy

Higdon, Paul Hornback, Ray S. Jones II, Morgan McGarvey, Dorsey Ridley, Albert Robinson, John Schickel, Brandon Smith, Johnny Ray Turner, and Whitney Westerfield; Representatives Kevin D. Bratcher, Denver Butler, Leslie Combs, Tim Couch, David Floyd, Keith Hall, Richard Henderson, Kenny Imes, Jimmie Lee, Donna Mayfield, Charles Miller, Terry Mills, Rick G. Nelson, Tanya Pullin, Marie Rader, Steve Riggs, Sal Santoro, John Short, Arnold Simpson, Diane St. Onge, John Will Stacy, Fitz Steele, Jim Stewart III, and Addia Wuchner.

Guests: Mike Hancock, Secretary, Transportation Cabinet; Tammy Branham, Executive Director, Office of Budget and Fiscal Management, Transportation Cabinet; Nancy Albright, Executive Director, Office of Project Delivery and Preservation, Transportation Cabinet; Tom Underwood, State Director, National Federation of Independent Business; Ryan Flota, President, Kentucky Household Goods Carriers Association; and Raleigh Brunner, Wildcat Movers.

LRC Staff: John Snyder, Brandon White, Dana Fugazzi, and Christina Williams.

Discussion of the Household Goods Movers Certificate Process

Tom Underwood, State Director, National Federation of Independent Business, discussed the Household Goods Movers Certificate process and the coinciding proposed bill (BR 92) that will be sponsored and introduced in the 2014 session of the General Assembly by Senator Tom Buford. Mr. Underwood stated that in allowing more Kentuckians to be able to start their own businesses, and work together in the household goods moving industry, better service is provided for consumers. The proposed bill gives the Transportation Cabinet more authority and autonomy in terms of regulating the industry.

Section one of the bill directs the Transportation Cabinet to issue a household goods certificate to any qualified applicant, if the applicant conforms to the provisions of KRS Chapter 281 and the administrative regulations. It also removes house goods certificates from the situs requirements of KRS 281.625, and directs the Transportation Cabinet to promulgate administrative regulations to establish requirements and set forth standards for household goods carriers (requires at a minimum, keeping the same regulation currently in force.)

Section two of the proposed bill exempts applicants of household goods certificates from notification requirements and the protest process outlined in KRS 281.625. Section three exempts household goods certificates from the certificate issuance provisions and the certificate transfer provisions of KRS 281.630. Section four establishes an initial application fee of \$250 for household goods certificates. Section five establishes a fee of \$250 for renewal of household goods certificates.

Section six of the bill requires household goods certificate holders to obtain and retain criminal background checks of employees who have direct contact with the public or may enter into a private residence or storage facility, for a period of three years. It also requires that background checks be performed at the expense of the certificate holder, completed prior to employment, and completed using an entity from an approved list issued by the cabinet. Lastly, section six directs the cabinet to promulgate administrative regulations to implement this section, including a list of disqualifying criminal offenses.

Mr. Underwood thanked Chairman Collins, Senator Buford, and The Household Goods Movers Association for working together to create legislation to resolve the issue to the best benefit of the industry and the consumers. He stated he appreciates the fruitful and constructive interaction between all parties involved.

Mr. Flota added that the current law stands as a protest provision where competitors are allowed to protest an application, and historically that has amounted to what competitors veto, so new moving companies cannot get into the industry. This bill does away with the competitors veto process. President Flota thanked the committee members for their time.

Mr. Brunner thanked all participating parties for allowing the issue to be resolved. He stated the protest portion of the law was written over 50 years ago and it is inadequate to move forward. He stated he wants to see new businesses welcomed to Kentucky.

In response to a question asked by Representative Floyd, Mr. Underwood stated the intent of the background check portion of the bill is to disqualify people who have been convicted of violent crimes or sex crimes. Therefore, customers will know that the movers they have in their homes have not been convicted of those types of crimes. The bill draft gives the cabinet authority to draft the list of disqualifiable offenses and it would follow the regulatory process and in be given to the Administrative Regulations Review Committee. Representative Floyd stated that someone who has been convicted and served time has already served the time, and is limited for the rest of his or her life on so many job opportunities. Representative Floyd does not want this provision to be another limitation.

In response to a question asked by Representative Floyd, Mr. Flota stated a person or persons that offer their services to move household goods for profit will have to adhere to the process outlined in the proposed bill in order to ensure consumer protection. Mr. Underwood added that the bill makes a dramatic structural change in allowing people to enter the market on a level playing field. This change to the law would create the best protection not only for the consumers, but for the movers as well.

Chairman Harris encouraged the cabinet to be thinking about what disqualifiable offenses to list, and as the Chairman of the Administrative Regulations Committee, he stated as long as the list meets the intent of the legislation, it would allow the cabinet authority to act on the list and a non-compliance letter could be issued if need be. Chairman Harris stated there needs to be something in legislation to clarify the list of disqualifying offenses.

Mr. Underwood stated the bill is still in the molding stage and both points from Chairman Harris as well as the point brought forth by Representative Floyd are still able to be discussed.

Chairman Collins thanked all parties for their cooperation that resulted in a proposed bill.

Road Fund Receipts Update

Mike Hancock, Secretary of the Transportation Cabinet and Tammy Branham, Executive Director of the Office of Budget and Fiscal Management gave a brief update on road fund receipts.

Ms. Branham stated that for 2013 fiscal year (FY) the official revenue estimate was just shy of \$1.5 billion. The revenue that was actually collected in FY 2013 was \$1.4916 billion, missing the estimate by only \$8 million. The largest difference in the estimate and actual figures was \$12 million in motor fuels taxes, which is largely attributed to the decline in vehicle miles traveled and taxable gallons consumed. Taxable gallons were on the decline in 11 of 12 months: in FY 2013 compared to FY 2012. Vehicle miles traveled were down or constant nine of the last twelve fiscal months over the previous year.

In response to a question asked by Chairman Collins, Ms. Branham stated if everything remained constant, including consumption and vehicle miles traveled, and the 2.4 cent per gallon increase stays in effect for all of FY 2014, she estimated an approximate \$58 to \$60 million in additional revenue will be collected in FY 2014.

Ms. Branham stated the cabinet was able to lapse \$17.7 million Road Fund dollars through the surplus expenditure plan to the state construction program closing in FY 2013. There was a 3.3 percent growth the Road Fund from FY 2012 to FY 2013, most of the growth being in the motor fuels area.

In FY 2014, the cabinet is still operating under the official enacted Consensus Forecasting Group (CFG) estimate which is \$1.5682 billion. Based on CFG's August estimate, it anticipates slightly lower road fund revenues than in previous projections. Ms. Branham stated if the August estimates were to hold true, the projected \$37 million reduction in motor fuels taxes from the current estimate would be revenue shared. About 48.2 percent of that (or approximately \$18 million) would be lost by the various revenue sharing programs. Part of the reason is the price of fuels will

not maintain the current variable tax rate for the second quarter of FY 2014. It is anticipated it may drop slightly after the next survey month.

Vehicle usage tax projections are stronger than were anticipated in December of 2011, primarily because in recent years people have been driving their cars longer, and now those cars are becoming less reliable and consumers are being forced into the market. The other taxes category projections are expected to be \$13 million less than the official estimate.

In response to a question asked by Chairman Harris, Ms. Branham stated the current per gallon tax for gas is 32.3 cents, but that includes 1.4 cents that goes to the Underground Storage Tank Fund. The variable portion of the tax that is subject to be adjusted each quarter is currently 25.9 cents.

In response to a question asked by Chairman Collins, Ms. Branham stated if the average wholesale price (AWP) drop doesn't happen before the session, and the AWP was frozen during the session, that would prevent the tax from falling any lower than current levels.

Chairman Harris stated he and Chairman Collins recently attended a meeting at the National Conference of State Legislatures, and after hearing discussion among other states, he realized how fortunate Kentucky is that gas tax that is indexed with inflation, and the Kentucky Constitution keeps General Fund money separate from Road Fund money.

Road Fund Cash Balance Status Update

Ms. Branham gave a Road Fund cash balance status update and referred to September of 2007, which is when cause for the current cash balance could be linked to. There was a low point in August of 2009, but in September of 2007 the cabinet began to realize that the program was overloaded from a cash perspective. In September 2007 an internal committee for the Road Fund Cash Management Program met and realized that almost \$405 million worth of project obligations were going to be added to the cash management plan that had not been anticipated.

Ms. Branham stated in order to give an idea of what \$100 million means to the program and trying to balance cash to a floor of \$100 million, based on the spending for FY 2013, \$6 million per calendar day or 8.4 million per work day at a \$100 million cash floor amount is only 16.7 days working capital per calendar day, or 12 days based on a work day. Therefore \$100 million does not stretch far when it starts to hover around the floor.

In 2007, there was an influx of project obligations against the road fund program unexpectedly and the economy began to take a turn for the worse. The cabinet cut \$445 million of resources from the model during FY 2008, FY 2009, and FY 2010 cash projection outlooks. The

Road Fund cash projections nosedived and the program was halted. From January of 2008 through September of 2010, the cabinet made only a net \$12.4 million in authorizations in the state construction program. To put that in perspective, 2006 saw \$336 million worth of authorizations and in 2007, \$771 million.

Ms. Branham stated the cabinet experienced a \$264 million Road Fund budget cut at the beginning of FY 2010 and over 2 years later, after it began to hit the brakes on the program, things were still looking bleak. However, the construction program was kept going because the cabinet then had the American Recovery and Reinvestment Act (ARRA) funds, as well as economic development and GARVEE bond programs since 2005. The cabinet has had \$2.4 billion dollars in bond authorizations.

Things began to take an upward turn in March of 2010 as \$45 million of the \$264 million Road Fund budget cut was restored to the state construction program. Debt restructuring was legislated which reduced current debt service. In FY 2010, FY 2011, and FY 2012, revenues exceeded expectations by more than \$110. Because of general cabinet-wide Road Fund slowed spending, \$160 million was lapsed in those three fiscal years to the state construction account through the surplus expenditure plan.

Because the construction program was kept going through other sources, in 2007 the cabinet had more than \$600 million in construction phase projects on the books and in the works. Ms. Branham stated today there are just around \$300 million of those projects on the books. The construction projects are spending out so much faster than the design, right-of-way, and utility phases, resulting in very large cash balances. Currently, the total outstanding unspent obligation in the state construction program is \$746 million of which \$353 million (47 percent) are state priority project (SPP) obligations.

Secretary Hancock stated as the 2012 highway plan was put together, one of the things the cabinet worked hard to accomplish was to look at how much cash was anticipated to come into the program, and then try to balance that with expenditures as best as possible. The cabinet put some very quick spend projects in the Governor's recommended highway plan to try to move some pavement rehabilitation projects. There was also a large amount of state money that was allocated to the I-65 widening project in south central Kentucky. That was done in order to spend the cabinet's cash balances down and use federal funds in other areas.

Secretary Hancock stated in FY 2009, there have been two Base Realignment and Closure Commission (BRAC) bond issues where the cabinet put \$156 million in BRAC bonds to work. There is a \$400 million SPB bond issue that is obligated in full. The cabinet has obligated approximately \$250 million

of a \$400 million SB2 bond issue, at the same time the cabinet had had ARRA funds that were in progress. The state expended approximately \$421 million of federal funds under the ARRA expedited construction program.

So far in the biennium, the cabinet is on track regarding SPP funds. Approximately half of the funds that have been indicated for SPP have been obligated. Many projects in the pipeline have significant design, utility and right-of-way requirements and as the cabinet attempts to do its best to spend those dollars quickly, right-of-ways can only be relocated so quickly, and utility lines can only be relocated so quickly.

As the cabinet works to complete these projects, it has tried to continue the state program and the federal programs moving along in parallel. The cabinet has also tried to target about \$1 billion per year of lettings that go to construction each year and has been successful in the last couple years meeting that. Since 2008, including the \$900 million Louisville River Bridges project in the estimates, in five years the cabinet has awarded \$5 billion worth of highway project awards. That kind of program needs a baseline of support from design, right-of-way, and utilities, and as demonstrated, those things do not spend out quickly. The program has a lot of design, right-of-way and utility work that will pay off in construction projects going forward. This must be remembered when evaluating the current cash balance, which, at \$500 million, is much higher than it should be.

Secretary Hancock concluded by saying if the current cash balance and the proposed projects that the 2012 General Assembly told the cabinet to focus on are compared, the cabinet is in the process of making those projects pay off over time. Therefore, the money that is in the bank today will be needed to complete those projects. If the cabinet expedites the spending of that money today and spends it on quick spend items other than the items the General Assembly instructed us to spend it on, then the cabinet will spend money that will not be there for the projects in the pipeline. It is an important consideration to make. There are those in the industry and other places who would say that the cabinet has a big balance and needs to spend it. There is no one who wants to spend this balance worse than he does, because he knows the message it sends and it says that the cabinet is not spending the money quickly enough. However, he feels that data shows the cabinet is very conscientious; it closely monitors where the cash is coming from and where it is going. The balance is a result of a lot of factors, some of which the cabinet has control over, some of which it does not. The cabinet is working hard to spend that cash down. He does not feel like there are apologies to be made for trying to execute the program the General Assembly put the cabinet back on track to execute.

Representative Combs stated that the Road Fund can be used by the state and has the ability to perpetuate the economies in the areas where roads are being built, by creating jobs, and helping the surrounding counties. She stated that she is aware several out-of-state companies make bids on construction projects, as well as other work the cabinet has. Because there are economic development dollars available to perpetuate in Kentucky communities, she would like to see those jobs contracted out to Kentucky companies, within the best of the state's ability. She stressed she does not want the state to pay a premium dollar for these jobs, but would like to see the contractors and other people providing services through the cabinet to acquire the best price possible for services.

In response to a question asked by Senator Higdon concerning the \$25 application fee and the \$25 license fee that is administered by the Kentucky Transportation cabinet (KYTC) for the household goods movers certificate, Secretary Hancock stated he would provide a list to him of other antiquated fees that the cabinet is collecting that might need to be reviewed in the future.

In response to a question asked by Representative Simpson, Secretary Hancock stated the construction process involves open bidding which proves to be difficult in allowing preferences of companies to be made. Furthermore, the cabinet is prohibited from offering in-state preferences for federal highway projects.

Ms. Branham stated that Kentucky law has a limited reciprocal preference process only from a purchasing standpoint and not a highway construction standpoint. If a vendor comes from out of state (example Ohio) and bids on something in Kentucky, and Ohio gives preference to in-state bidders, Kentucky then applies that same preference to its in-state bidders, but only against the bidders from Ohio.

Representative Simpson requested historical figures from the previous five years as to the expense of reciprocal agreements to the state. Secretary Hancock stated he will provide those figures.

In response to a question asked by Senator Ridley concerning replacement of the current motor fuels taxation process in the future because of the vehicle miles traveled usage declining, and the reduction in the use of motor vehicle fuels usage. Secretary Hancock stated the problem has been foreseen for a while as vehicle miles traveled is down across the country. A big reason for vehicle miles traveled being down is because there is a different kind of migration pattern today than was seen in the past. Residents from rural areas in the state are moving to the urban areas because of location convenience. As vehicle miles traveled is decreasing, the vehicle miles per gallon standards are increasing; therefore the traditional means of funding transportation in America is going in the wrong direction.

A good example of this trend is the Federal Highway Trust Fund, funded by the Federal Fuel Tax of 18.9 cents per gallon. There is a congressional desire to sustain transportation at one level of funding, but the income to the Highway Trust Fund is substantially less than that. Congress has made up the difference by infusing Federal General Funds into the Federal Highway Trust Fund. A precipitous decline is anticipated in the year 2015 in which the Federal Highway Program will go from \$42 billion a year nationally to virtually zero in 2015. As that occurs, Congress will struggle as it seeks to create a Transportation budget in the current year and later next year. All of these issues are future issues if there is not another way to fund Transportation. All of the states and the United States Department of Transportation are interested in the trend and concerned as well. Secretary Hancock stated in 20 years if something has not changed, the roads will merely be able to be maintained at best.

Chairman Collins stated that states have recently been discussing electric cars, hybrid cars, natural gas, and how they would obtain funds for usage of the roads from citizens that utilize these sources. Some states are charging a flat fee per year for the use of the road. He indicated more natural gas vehicles are emerging. United Parcel Service recently bought 1,700 vehicles and stations will be installed across the United States that will allow them to fill their vehicles with natural gas.

Rep. Hall stated he welcomes the use of liquid natural gas (LNG) and compressed natural gas (CNG). The fuel tax paid under specialty fuels is 30 cents per gallon which goes into the Road Fund. He stated LNG and CNG reduces pollution, and in using them, Kentucky gas would be used.

Overview of KYTC Maintenance Activities

Secretary Hancock stated the need for additional maintenance funding should be a discussion point through the upcoming biennial budget process. The maintenance budget has been frozen at the current level since 2010, and while the cabinet has gotten by, it has just barely gotten by.

Nancy Albright, Executive Director, Office of Project Delivery and Preservation gave a brief overview of the KYTC maintenance activities. Ms. Albright highlighted the five major areas of maintenance: 1. Roadway Maintenance, which includes snow/ice removal, mowing, tree/bush issues, striping, pothole patching, ditch cleaning, pipe/culvert repair, litter/dead animal pickup, guardrail repair, and replacing missing and damaged signs; 2. Bridge maintenance includes deck replacement,

structural steel repairs, expansion joint repair/replace, piers and other substructure repairs, paint, and emergency repairs; 3. Traffic Maintenance includes traffic signal installation, operations and repairs, new sign installation, operating and maintaining of roadway lighting, intelligent traffic systems, 511, and operation and maintenance of the Cumberland Gap Tunnel; 4. Guardrail maintenance includes addressing uninstalled guardrail needs, one mile of guardrail costs approximately \$142,200; and 5. Rest area maintenance which includes contracts for custodial services and grounds keeping and inspecting properties for contract compliance. Ms. Albright stated these maintenance tasks are addressed for approximately 15,000 miles of road networks that the state owns.

Ms. Branham stated the maintenance budget has not increased since 2010. The current maintenance budget is just under \$325 million, which is no longer able to adequately address the maintenance operations. The list of maintenance activities that was provided is lengthy, however it is just the highlights and does not include some of the smaller things that are too numerous to mention. No program can be sustained at its current level for 5 fiscal years without any current growth without some loss of service, and the same applies to the cabinet's maintenance program. Lack of timely maintenance will lead to early replacement costs, leading to a pay now out of the maintenance fund, or pay later out of the construction fund scenario. The maintenance budget has been underfunded since 2003 and the cumulative effect is now being felt.

In response to a question asked by Chairman Collins, Ms. Branham stated when a guardrail is damaged, it attempts to collect repair funds from the liability companies of the vehicle owner that caused the damage, but is often not successful. Secretary Hancock stated the percentage of repair funds that is collected is a low percentage.

In response to a question asked by Chairman Collins, Ms. Albright stated the cabinet has not installed raised reflectors in the center lines since 2007, however, it maintains reflectors in certain areas such as two-way left turn lanes, and interstate interchanges.

In response to a question asked by Chairman Collins, Secretary Hancock stated the needs far outweigh the ability to meet them, and as a result a modest request would be made to increase funding in the upcoming budget process. Chairman Collins agreed that it was in the best interest of the state to keep the roads in good condition and in order to do that, there must be maintenance funds available.

In response to a question asked by Representative Bratcher, Ms. Albright stated the cabinet has an agreement with Jefferson County to maintain the roads. The cabinet maintains the higher order roads, such as interstates and major

thoroughfares while the metro government maintains the lower order roads. The main reason for that agreement is so there is no confusion and duplication of effort or roads missed. In the agreement, whoever is plowing a particular route plows the whole way from point A to point B. Ms. Albright stated that system really seems to be working well and is more efficient. The Louisville Metro Government sends the Kentucky Transportation Cabinet a bill for the work that it performs on state roads every month. That bill is reviewed and processed to pay for the work that was done as long as there is documentation of work.

In response to a question asked by Representative Short, Secretary Hancock stated there are only two two-lane parkways, and they are both in Eastern Kentucky, but he will confirm that answer.

In response to a request from Representative Short, Secretary Hancock stated he will provide the Committee with a percentage of the state approved contracts that are awarded to out of state contractors.

Ms. Albright stated much of the maintenance work is unforeseen because of Mother Nature or father time leaves the state with a situation that needs to be addressed immediately and is unpredictable. The biggest of those situations is winter and snow/ice removal. There are costs that are incurred every year to prepare for winter weather even if that weather never occurs. Those costs include buying salt, calcium chloride, and getting the salt trucks prepared. The cabinet also has to hire and make sure the contractor partners are available to help with cleanup. Even in a relatively mild winter, keeping the roads drivable costs several million dollars.

In response to a question asked by Chairman Collins, Ms. Albright stated any funds that are saved in the previous years do carry over.

Ms. Branham stated that 2011 was a bad winter and fortunately 2012 was much milder. If Kentucky would have experienced the same level of ice and snow clean up in 2012 as it did in 2011, the Department would have been completely over budget by the middle of March in 2012.

Ms. Albright stated that while the maintenance budget has had an increase in the budget from the 2003 levels, the cost of work needed and getting that work accomplished likewise increases over time. She stated the effect of deferred maintenance in the system is also reflected by poor pavements. Poor pavements are defined by a visual assessment, pavement roughness testing, and traffic volumes. There are higher expectations for the higher traffic volume roads, therefore those roads have a higher level of service that they have to meet. Poor pavements,

as the cabinet defines them, means that the roads need to be resurfaced at least within the next year. Occasionally it may mean the road needs more than resurfacing. Currently, the recommended amount is that 28 percent of the payments need to be addressed next year. The cabinet will be unable to address all of those roads, so there work will be left undone. As more roads become in a state of poor condition, and are being patched instead of resurfaced or rehabilitated, they cost extra money just to keep them open and passable, until the cabinet can resurface them.

The same situation holds true for the bridges as the roads. The term structurally deficient has been used frequently to define these bridges. Structurally deficient means the bridges need maintenance work. The cabinet owns 585 bridges that are “structurally deficient” as defined by the Federal Highway Administration. There are many more bridges in this category than can be addressed. Many bridges will be added to the list in the upcoming years as fair condition bridges decline into structurally deficient.

The cost of keeping bridges in good repair include, but are not limited to; superstructure replacement with an average cost of \$750,000; concrete deck replacement with an average cost of \$400,000; concrete overlays at a cost of \$250,000; expansion joints repair and replace as well as substructure repairs, and structural steel repairs all at an average cost of \$150,000 each; emergency repairs at an average cost of \$100,000; bridge painting at a cost of \$200,000; and preventative maintenance at an average cost of \$15,000. On top of these costs there may be environmental concerns, railroad involvement and traffic control that will impact these costs and make them rise even more.

Ms. Albright stated traffic devices are not something that is discussed frequently until they are no longer working. The Kentucky Transportation Cabinet maintains and operates approximately 5,000 electrical devices (traffic signals, school flashers, and beacons,) and that number grows larger every year. The cabinet no longer has specific funding for rebuilds and upgrades to electrical devices (that funding was previously over \$1 million.) The cabinet no longer has specific funding sources for locations that warrant interchange lighting. Projects to improve traffic signal management and operations have demonstrated benefit cost ratios exceeding 40:1. Traffic devices are appreciated by the traveling public and keeping them in good repair is even more appreciated, but as funding is stretched tighter, the ability to keep them working properly becomes harder. As lighting needs increase, funding decreases. The cabinet spends more time maintaining older traffic signal systems that cost more money to keep them operating.

In response to a question asked by Representative Simpson, regarding

to snow and ice removal, Ms. Branham stated in January of 2009, parts of the state were hit by an ice storm and counties were left with budgets that were too small to fund the cleanup costs. As a result, the Governor asked the cabinet to explore ways in which Road Fund dollars may be able to be used for clean up. Most of the roads under the snow and ice conditions were covered by either Federal Emergency Management Agency (FEMA) or Federal Highway Administration Emergency Response (ER) funds, and where the counties could not come up with their share, which was 15 percent, the state covered that either out of revenue sharing dollars or Road Fund dollars. If the county could not afford the contract at all, the cabinet covered the expense under the umbrella of contracts in each area and paid those costs for them. The cabinet received a substantial amount of money back in ER funds, but to date it is at \$13 million in the estimate of unreimbursed expenses. The money was only Road Fund authorized roads, not parking lots or other entities. Ms. Branham stated that if Kentucky experiences a bad winter, and the funds are exhausted for ice removal, the cabinet will reallocate money that is needed to keep the roads safe and passable.

Chairman Collins praised the cabinet for its work and thanked all in attendance. He adjourned the meeting at 2:38 PM.

CAPITAL PLANNING ADVISORY BOARD Minutes of the 4th Meeting of the 2013 Calendar September 5, 2013

Call to Order and Roll Call

The 4th meeting of the Capital Planning Advisory Board was held on Thursday, September 5, 2013, at 3:00 PM, in Room 169 of the Capitol Annex. Senator Stan Humphries, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Terry Mills, Co-Chair; Senator Whitney Westerfield, Representative Tom Riner, Charles Byers, Jane Driskell on behalf of Mary Lassiter, Laurie Dudgeon, Carole Henderson, John Hicks, Sherron Jackson, and Katie Shepherd.

Guests testifying before the board: Laurie Dudgeon, Director, Administrative Office of the Courts; Kristi Culpepper, Staff Administrator of the LRC Capital Projects and Bond Oversight Committee, Legislative Research Commission; Ron Carson, Senior Fellow and Legislative Liaison, Allen Lind, Vice President of Technology and eLearning, and Shaun McKiernan, Senior Associate, Council on Postsecondary Education; and James Fowler, State Chief Information Officer, Commonwealth Office of Technology.

LRC Staff: Shawn Bowen, Josh Nacey, and Jennifer Luttrell.

Approval of Minutes

A motion to approve the minutes of the July 17, 2013, meeting was made by Sherron Jackson, seconded by Senator Westerfield, and approved by voice vote.

Senator Humphries and Representative Mills requested that the board observe a moment of silence in honor of Laurel True. Mr. True was a long-standing member of the Capital Planning Advisory Board, serving from 1990 until his term expired in April 2011.

Review of Agency Capital Plans

Ms. Dudgeon testified about the state agency capital plan for the Court of Justice. She said two new judicial centers are planned in the 2014-2016 biennium for Nicholas and Henry counties for \$10,868,000 and \$12,750,000, respectively. In the 2016-2018 biennium, new court facilities are planned for Bath and Lee counties, \$13,579,000 and \$11,079,000; and in 2018-2020, new facilities are planned for Fulton and Owsley counties, \$11,876,000 for both.

Ms. Dudgeon said in May 2012, Chief Justice Minton signed new Administrative Procedures that govern the construction of judicial projects. Prior to construction, local project development boards now perform a feasibility study to determine if the county needs a new court facility, or if the existing court facility could be renovated.

Ms. Dudgeon said the judicial centers were last assessed in 2011 by the Administrative Office of the Courts (AOC). Those assessments were done on 48 courthouses statewide that have not had any major renovations since 1996.

Relative to comments from Senator Humphries regarding space occupancy in the new judicial centers, Ms. Dudgeon said newly authorized court facilities will include space to house agencies such as the County Attorney and the Commonwealth Attorney. The new court facilities will also provide space for staff from the Sheriff’s Office.

Senator Humphries asked how AOC manages the construction of new court facilities for counties that have historic courthouses. Ms. Dudgeon said the new Administrative Procedures would allow the architect to do a feasibility study and determine if the facility can be renovated, rather than build a new facility.

Staff Report on Kentucky’s Bonded Indebtedness

Ms. Culpepper discussed a report on the state’s debt position as part of the capital planning process. In summary, the report noted that Kentucky’s near-term financial picture has improved since the recession. The state has experienced three years of revenue growth, and the structural imbalance in the General Fund budget has been significantly reduced. Kentucky has been penalized by the rating agencies, however, for a number of financial practices. The state has a high debt burden and unfunded pension liabilities relative to other states using various debt indicators. Also, while the state has begun to rebuild reserves that

were depleted during the recent economic downturn, the current balance in the Budget Reserve Trust Fund is well below the goal established in statute and the levels that market participants expect.

Relative to a question from Senator Westerfield, Ms. Culpepper said there are three different agencies that provide bond ratings to the state: Moody's Investors Service, Standard and Poor's, and Fitch Ratings.

Relative to a question from Senator Humphries, Ms. Culpepper said the state has experienced historically record low interest rates in the bond market, which translates into lower borrowing costs for the state. As those rates climb, the amount of interest the state must pay increases, it becomes more expensive to borrow money, and the state's debt capacity decreases. Kentucky has very little flexibility to deal with rising interest rates in the bond market due to the significant amount of debt the state has issued over the past few biennia. The current budget issues a low amount of debt, however, four previous budgets issued close to \$2 billion in debt. The state is now close to the 6 percent threshold with the amount of debt that has been authorized to date at current market rates.

Council on Postsecondary Education Project Review

Mr. Carson, Mr. Lind, and Mr. McKiernan gave an overview of the Council on Postsecondary Education's (CPE) report of postsecondary education projects to be financed with General Funds. The projects were grouped in three categories: asset preservation and renovation (94 projects), construction of new/expanded education and general research facilities (41 projects), and information technology initiatives (24 projects).

CPE has developed an approach and model to address the capital needs of postsecondary institutions. To fund this initiative, in its 2014-16 budget request due November 2013, CPE intends to request funding in the amount of \$600 million for three biennia, or \$1.8 billion in total. The model would recommend that a pool of funds be established and administered by CPE, and funding be done in terms of an allocation of dollars to each postsecondary institution, rather than on a per-project basis. Postsecondary institutions will select and rank their projects based on three priority areas: asset preservation, construction of new/expanded education and general research facilities, and information technology initiatives. Each institution must submit a project list to CPE in order to be eligible to receive an allocation of funds, and the institutions must agree to meet a certain balance of the expenditures on asset preservation.

This multi-biennia funding approach would provide a balanced investment as recommended by the VFA Study; allow more flexibility for institutions to implement capital projects; allow

campuses to better plan for construction; and provide for stronger protection of state-owned assets.

Mr. Lind said the information technology projects selected by CPE are network-oriented projects. Network demands are increasing due to the increased number of devices students and classrooms are providing, and one of the best uses for scarce capital dollars, is the investment in IT networks for education.

Representative Mills said he supported CPE's report and appreciated that CPE is striving to balance the need for new projects versus preserving existing state-owned facilities.

Mr. Jackson asked why postsecondary IT projects are not reviewed by the Commonwealth Office of Technology (COT) in its report to the board. Mr. Lind said the postsecondary IT projects' nature is specialized and distinct, and the projects require specialized review and evaluation by CPE. Additionally, from a budgeting standpoint, CPE is responsible for submitting the capital and operational budgets of those institutions.

Relative to a question from Mr. Jackson regarding the use of the postsecondary IT pool, Mr. Lind said there has not been any capital IT money for a number of years. In 2006, there was a joint budget request from K-12 and postsecondary education, and money was provided. Technology deteriorates much more rapidly than buildings, and the current status of the state's postsecondary IT infrastructure is not what it should be to deliver quality education. The technology projects include fiber optic cable and network-oriented projects. These assets will last 20 years or more, and are normally paid for with bond funds.

Senator Humphries commented that it is not always cost-effective to rehab an existing facility. Some of the older postsecondary facilities are used for research and science. New modern facilities may bring research opportunities and additional dollars to the state universities.

COT Information Technology Project Recommendations

James Fowler, State Chief Information Officer, discussed COT's report on information technology projects. COT recommended 40 state agency IT projects for funding in the 2014-2016 Executive Budget. The projects had a value of \$267.5 million from all funding sources. Ten General Fund projects, valued at \$33.6 million, were identified as "High Value" projects.

The Chief Information Officer also recommended seven additional IT projects that address priority areas throughout state government, and are believed to have the potential for maximizing agency business value with properly applied risk management. The projects utilize \$52 million General Funds and \$56 million federal funds.

Relative to a question from Mr. Hicks regarding the Council on Postsecondary

Education Expand Kentucky Regional Optical Network (KyRON) Infrastructure project, Mr. Fowler said this initiative complements the CPE initiatives discussed earlier. The project expands the infrastructure of KyRON, a fiber network of dedicated optical wavelengths between major concentration points. KyRON will connect community anchor institutions across the state to the national Internet2 100Gbps backbone, and to community anchor institutions in other states. If Kentucky does not have the availability of a high-speed network, the state will have a hard time attracting and retaining new business. As the state begins to offer more government services online, the state simultaneously begins to disenfranchise communities where broadband access is not available. The state needs to have broadband capability that will last the next 25 years.

Representative Mills asked what the expected useful life of the Kentucky State Police Replace AFIS Livescan Equipment project was. Mr. Fowler responded that he did not know, but he would find out.

Mr. Buyers asked if the federal dollars associated with the Cabinet for Health and Family Services Child Support System project (KASES III) are subject to expiration if state funding is not received. Mr. Fowler responded that he did not know, but he would find out.

Statewide Plan Policy and Project Recommendations

It is the practice of the board to include both policy and project recommendations in the statewide capital plan. Senator Humphries said that at the board's July meeting, Mr. Hicks suggested that three policy recommendations included in the 2012-2018 *Statewide Capital Improvements Plan* be updated and included in the current plan. Those recommendations include funding for the Budget Reserve Trust Fund that represents 5 percent of General Fund revenues; adequate funding for state agency maintenance pools; and endorsement of CPE's multi-biennia approach for financing capital needs of the postsecondary institutions. Copies of the recommendations were included in members' binders.

Senator Humphries said there was one new policy recommendation submitted by Representative Mills relative to funding for the state's information technology projects. The recommendation urges the Governor and the General Assembly to provide adequate and equitable funding in the 2014-2016 Executive Budget for agency information technology projects.

Representative Mills said the state's information technology systems are inadequate, and increased funding for the backlog of IT projects will make it possible for the Commonwealth to more efficiently and effectively deliver services to citizens. Additionally, addressing the state's IT needs on an ongoing basis, rather than allowing systems to become completely outdated, will reduce or

eliminate the need for large dollar projects that require a major infusion of cash.

Senator Humphries said the voting sheets will be e-mailed to members after the meeting. Responses are due September 19, and will be included in the September 24 meeting materials.

With there being no further business, Representative Mills made a motion to adjourn the meeting. The motion was seconded, and the meeting adjourned at 5:00 PM.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes of the Meeting of the 2013 Interim

September 12, 2013

Call to Order and Roll Call

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Thursday, September 12, 2013, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Mike Wilson, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Rita Smart, Co-Chair; Senators David P. Givens, Alice Forgy Kerr, and Gerald A. Neal; Representatives Tim Couch, Joni L. Jenkins, and Mary Lou Marzian.

Guests: Wayne Young, Kentucky Association of School Administrators, Marty White, Kentucky Association of School Superintendents, and Clyde Caudill, Jefferson County Public Schools, and Kentucky Association of School Administrators.

LRC Staff: Janet Stevens, Jo Carole Ellis, Ben Boggs, Ken Warlick, and Daniel Clark.

Approval of Minutes, June 18, 2013 Meeting

Representative Joni Jenkins moved to approve the minutes, and Senator Alice Forgy Kerr seconded the motion. The motion carried by voice vote.

Kentucky District Data Profiles School Year 2012

Emily Spurlock, Division Manager, Research, Office of Education Accountability (OEA), said the Kentucky District Data Profiles is presented every year to the Education Assessment and Accountability Review Subcommittee (EAARS) for easy access to commonly used education data. In the beginning of the Kentucky District Data Profiles report there is a data dictionary with definitions and sources for the different variables OEA has used. The majority of the report is a two-page summary for each school district. The report has four main sections for each school district in the report that include overview and trends, staffing data, finance, and performance.

Kentucky School District Superintendent Employment and Contracts

Ms. Spurlock said OEA's research agenda for this year was to include

a report on statutes, regulations, and local district policies relating to the employment and contracts of Kentucky school superintendents. Specifically, the study was to include a review of salaries, benefits, and other contract terms for superintendents. In order to complete this study, OEA requested and received documents from all districts, and sent out a survey to collect additional information. Ms. Spurlock said there were two major findings to the report. The first of the two major findings in the report was that even though OEA found some issues in a review of district documents that should be further reviewed by local boards and district staffs, most superintendents are receiving salary and benefits as provided in their contracts. The second finding was that comparing superintendent compensation by salary alone could be misleading. Some benefits received by superintendents add a considerable amount to the total compensation received.

Ms. Spurlock said superintendent requirements and responsibilities are found in multiple places in KRS Chapter 160. Superintendents are required to be certified as a superintendent, to undergo new superintendent training within one year, and to be a Kentucky resident. After assuming the position, statutes state that the superintendent is to be the executive agent of the board, provide general supervisions of the schools, and may serve as secretary of the board of education. Superintendents are required to be evaluated by the board on an annual basis. The evaluation is not required to be written, but if it is written, a copy is to be made public upon request. Superintendents are also required to undergo professional development on an annual basis.

Ms. Spurlock said OEA compiled information on the superintendent in each district going back to 1995. The information was based on the district directory that is published every year which is considered to be an accurate source of personnel. For all superintendents between 1995 and 2013, the average stay for a superintendent in a school district was six and a half years. In 2013, about 29 percent of all superintendents were female, and since 1994, three minority superintendents have served in Kentucky. Ms. Spurlock said on average, between 1995 and the beginning of the current school year, 23 superintendent positions turned over each year, which is about 13 percent. OEA counted a turnover as one superintendent replacing another, without counting interim or acting superintendents.

Ms. Spurlock said the hiring of a superintendent and the approval of the contract should be done in open session, and should be reflected in the minutes. The attorney general has previously stated that while the board is permitted to go into closed session during the initial hiring of the superintendent, the board cannot go into closed session to renew the contract of a current superintendent. Any later modifications to the contract or benefits

the superintendent receives should also be done in open session and reflected in the board minutes. Based on documentation reviewed, OEA feels that a written addendum to the contract, signed by both parties that clearly reflects a modification to terms, would be the best practice.

Ms. Spurlock said that OEA found that most superintendent contracts contain a few of the same provisions, the first being employment terms and working days. Most contracts begin on July 1 and end on June 30 and superintendents are statutorily limited to an initial term of no more than four years. Contracts also usually state the agreed-upon salary and any provisions for future raises. If the superintendent is to receive general raises given to other certified staff, the contract should clearly state that. Most contracts have provisions that deal with the benefits that are to be provided. Benefits might include various insurance coverage, travel and reimbursement, retirement benefits, and leave days. Also, most contracts contain provisions stating the duties and expectations of the superintendent. There were many contracts that contained other common provisions along with contracts that contained provisions that are not permitted.

Ms. Spurlock said OEA staff compared the superintendent contract in place during fiscal year 2012 with Munis reports generated by the district that detailed superintendent pay records. Overall, OEA found that on average, a superintendent's annual salary was about \$120,000 and benefits averaged \$8,000. OEA considered salary to be the contract salary as well as additional pay for things like unused vacation days or payment for additional job duties. In Kentucky, the range of salary for superintendents was from about \$74,000 to \$276,000. Sometimes, comparisons of salary alone can be incomplete. Many superintendents receive additional benefits to which a monetary value can be assigned. These include things like reimbursement for the superintendents' contributions into the Kentucky's Teacher retirement system, other benefits such as deferred compensation or annuity plans, insurance benefits, or other monetary benefits such as Medicare reimbursement or housing allowances.

Ms. Spurlock said the payment of insurance benefits is a common benefit provided. In 2012, 73 superintendents had their portion of premiums for health insurance paid by the district with the average amount paid being about \$4,800. In the same year, 40 superintendents received dental insurance averaging over \$700, and 20 superintendents received vision insurance at just over \$200. Thirty-nine superintendents received life insurance, with an average premium payment of about \$1,500 and 15 superintendents received disability insurance, averaging about \$2,700.

Ms. Spurlock said retirement benefits were another common form of benefit.

Thirty-nine superintendents received reimbursement of their contributions into the Kentucky Teachers Retirement System, averaging about \$12,500, and 15 superintendents received payments into a deferred compensation or annuity plan, averaging almost \$15,000. Another benefit is the payment of tuition or other fees related to furthering the superintendents' education. Six superintendents received the payment or reimbursement of tuition or fees, averaging over \$13,000. One hundred one superintendents had at least one additional monetary benefit included in their compensation. The average dollar amount of additional benefits was almost \$13,000. Fifty-eight superintendents did not have any additional monetary benefits, and so in those cases, the total compensation was the same as the salary.

Ms. Spurlock said all but nine superintendents indicated on OEA's survey that they received some form of technology benefit, with the most common benefits being smart phones, tablet computers, and laptop computers. Some superintendents are provided devices and services directly from the district, while others are provided an allowance every month for technology needs. Also, most superintendents receive some form of transportation benefits, such as reimbursement of actual expenses, access to a district vehicle, a monetary vehicle allowance, or access to district credit cards or gas tanks.

Ms. Spurlock said a final nonmonetary benefit is leave days. A full work year is usually 260 days and superintendents with a 240 day contract have 20 non-contract days built into their year. In addition, some superintendents receive paid leave days such as sick days, vacation days, or personal days. Statute allows no less than 10 days of sick leave, and most superintendents receive either 10 or 12 days. More than half of superintendents receive vacation days, with 20 days being the most common number of days provided. In some contracts, the provision reads that the superintendent is to receive the same number of leave days as what is provided to other 12 month district employees.

Ms. Spurlock said some of the recommendations in the report were very specific, but three of the recommendations were very broad in nature and sought to address some of the issues noted by OEA in the report. The first is that the hiring of the superintendent, approval of the contract, and any amendment to the contract, terms, salary, or benefits should be adopted in an open session reflected in the minutes. The second is a recommendation that the employment contract should be clearly written. Terms should be specifically stated, and care should be taken to avoid vague or conflicting provisions. The final broad recommendation is that the board should annually review the salary and benefits paid to or for the superintendent and compare them to the contract and any amendments.

In response to Senator Mike

Wilson's questions regarding annual evaluations and rollover provisions in superintendent contracts, Ms. Spurlock said the annual evaluations are done by the local board. The local boards are required to have a procedure that is approved by the Kentucky Department of Education (KDE). Ms. Spurlock said OEA found 12 districts with automatic rollover provisions and that districts should know that automatic rollovers are not permitted.

Senator David Givens' complemented OEA staff on the work they have done regarding the report.

In response to Senator David Givens' questions regarding superintendents needing to recognize wrongdoings and performance attributors, Marcia Seiler, Director, OEA, said there is recognition by the superintendent that some things need to be changed. She said OEA has had phone calls from superintendents that did not realize that some things were being overpaid and some phone calls about a benefit the superintendent should be receiving but was not. Ms. Spurlock said several contracts contained clauses relating to the raises given to the superintendent every year.

Senator David Givens' stated he would like for both the Chairman and KDE to be alerted that he has concerns about an agency taking authority somewhere if they do not have it.

In response to Representative Rita Smart's questions regarding a relationship relating to salaries and the size of districts, how minutes are done at different school board meetings and contract provisions, Ms. Spurlock said there is more variation in the size of districts than there is in superintendents' salaries, but generally superintendents in larger districts have larger salaries. Ms. Seiler said the board minutes should be formal and documented. Ms. Spurlock said there were a few contracts that contained provisions requiring pay-back clauses if the superintendent decided to leave.

In response to Representative Mary Lou Marzian's question regarding minority superintendents, Ms. Spurlock said there is one minority superintendent as of right now in Covington, Kentucky (Covington Independent Schools). She said KDE has a program, the Minority Superintendent Intern Program, for minorities who are interested in becoming superintendents. There have been nine participants in the Minority Superintendent Intern Program since it began.

In response to Senator Gerald Neal's questions regarding evaluations or studies OEA has done relating to minority representation, Ms. Seiler said OEA has yet to do a study on that topic but will be handing a memo out to members of the committee for recommendation of study topics for 2014.

Senator Gerald Neal recommended to Chairman Mike Wilson that the entire system, including evaluation of superintendents and minorities as superintendents, be a study topic for 2014.

In response to Senator Alice Forgy Kerr’s question regarding how many African Americans and woman have applied for superintendent vacancies, Ms. Spurlock said OEA was not aware if that was a data point being collected.

In response to Representative Derrick Graham’s questions regarding why OEA is only giving an evaluation of 155 school districts policies instead of 173 school districts and the policy process and evaluation services offered by with the Kentucky School Board Association (KSBA), Ms. Seiler said OEA did a survey and asked for documents to be submitted to them. There were 18 school districts that did not respond. Shannon Stiglitz, Director of Government Relations, KSBA, said KSBA helps school boards draft policies to make sure they are in compliance with state law, federal law, and KDE regulations. Ms. Stiglitz said KSBA currently does offer superintendent evaluation training.

Approval of Office of Education Accountability Study Reports

Upon motion from Representative Mary Lou Marzian, seconded by Representative Rita Smart, the Kentucky District Data Profiles School Year 2012 report was approved by voice vote.

Upon motion from Senator Alice Forgy Kerr, seconded by Representative Mary Lou Marzian, the Kentucky School District Superintendent Employment and Contracts report was approved by voice vote.

With no further business before the committee, the meeting adjourned at 10:55 a.m.

GOVERNMENT CONTRACT REVIEW COMMITTEE
Committee Minutes

September 9, 2013

Call to Order and Roll Call

The Government Contract Review Committee met on Monday, September 9, 2013, at 10:00 AM, in Room 169 of the Capitol Annex. Senator Sara Beth Gregory, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Sara Beth Gregory, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll and Christian McDaniel; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Guests: Carrie Banahan, Tammy Bullock, Charlie Harman, Karen Kidwell, Travis Powell, Yvonne Lovell, Walt Gaffield, Holli Spade, Erik Dunnigan, Terry Brogan, Sarah McCoun, and Connie Payne.

LRC Staff: Kim Eisner, Charles Booker, and Becky Booker.

A motion was made by Representative Yonts to approve Minutes of the August 2013 meeting of the committee. Representative Montell seconded the motion, which passed without objection.

JUNE 2013 DEFERRED ITEM
FISH & WILDLIFE, DEPARTMENT

OF

Jonathan W. Gassett, 1300002393. The agency requested to withdraw the contract from the agenda. A motion was made by Representative Yonts to withdraw the contract as requested. Representative Montell 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 Horlander 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 Horlander 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 Horlander 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 Horlander seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Tad Thomas, 1400000229; Stites and Harbison, 1400000230.

CABINET FOR HEALTH AND FAMILY SERVICES:

Janet M. Hall, 1400000264; Thomas J. Hellmann, Attorney-at-Law, PLLC, 1400000265; Susan Gormley Tipton, Attorney, PSC, 1400000266.

EASTERN KENTUCKY UNIVERSITY:

Huron Consulting Services, LLC, 14-063.

EDUCATION, DEPARTMENT OF:

Melior Incorporated, 1400000186.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Architectural Investment, 1400000003.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Lansing Community College, 563; San Diego State University Research Foundation, 568; Elmhurst College, 571; California University of Pennsylvania, 572.

KENTUCKY STATE UNIVERSITY:

JD & Associates Incorporated, 14-11.

LEGISLATIVE RESEARCH COMMISSION:

Robert L. Linn, 13/14-05; Ron Hambleton, 13/14-06; Pat Roschewski, 13/14-07; Daniel Koretz, 13/14-08; Doris Redfield, 13/14-09.

MILITARY AFFAIRS, DEPARTMENT OF:

Federal Resources Supply Co., 1400000113.

NORTHERN KENTUCKY UNIVERSITY:

Peck Shaffer & Williams, LLP, 2014-645; Richard Fleischman & Partners Architects, 2014-646.

TRANSPORTATION CABINET:

T H E Engineers Incorporated, 1400000223; Garver, LLC, 1400000256; Hanson Professional Services Incorporated, 1400000257; QK4, 1400000279; GRW Aerial Surveys Incorporated, 1400000280; American Engineers Incorporated, 1400000285; HDR Engineering Incorporated, 1400000344; CDP Engineers Incorporated, 1400000350.

UNIVERSITY OF KENTUCKY:

Sherman Carter Barnhart, A141070; Staggs & Fisher Engineers, A141090; Horn & Associates in Rehabilitation Incorporated, K14-120; Bond, Schoeneck, & King, PLLC, K14-121; Potomac-Hudson Engineering Incorporated (PHE), K14-122; Huron Consulting Group, K14-123; Palliative Care Center of the Bluegrass Incorporated, K14-124; Palliative Care Center of the Bluegrass Incorporated, K14-125; Susan W. Burton, DMD, K14-126.

UNIVERSITY OF LOUISVILLE:

ERP Analysts, 14-017; Perficient Incorporated, 14-021; Stites & Harbison, PLLC, 14-022; Io Consulting Incorporated, 14-023.

WESTERN KENTUCKY UNIVERSITY:

Multi, 131418.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Adams Stepner Woltermann and Dusing, 1100001037.

AGRICULTURE, DEPARTMENT OF:

McBrayer McGinnis Leslie and Kirkland, 1300001780.

DEPARTMENT FOR PUBLIC HEALTH:

St Elizabeth Medical Center, 1200003805.

FINANCE AND ADMINISTRATION CABINET:

Conliffe Sandmann and Sullivan, 1300001797.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

MSE of Kentucky Incorporated, 0700003278; Peck Flannery Gream

Warren Incorporated, 0700003483; EOP Architects, PSC, 0700005000; Bender Associates Architects, 0800007400; Omni Architects, 0900011348; Arrasmith Judd Rapp Chovan Incorporated, 0900011608; Facility Commissioning Group, 0900011688; Paladin Incorporated, 1100002046; Staggs and Fisher Consulting Engineers Incorporated, 1200000308; K Norman Berry Associates, 1300000110; URS Energy and Construction Incorporated, 1300001891.

MEDICAL LICENSURE, BOARD OF:

Multi, 1200002107.

NORTHERN KENTUCKY UNIVERSITY:

Dinsmore & Shohl, LLP, 2014-546-1.

TRANSPORTATION CABINET:

GRW Engineers Incorporated, 0600002125; BTM Engineering Incorporated, 0700003469; HDR Engineering Incorporated, 1100000555; American Engineers Incorporated, 1100001599; Greenman-Pedersen Incorporated, 1100002113; American Engineers Incorporated, 1100003014; Stantec Consulting Services Incorporated, 1200001547; Michael Baker Jr. Incorporated, 1200001733; Hazelrigg and Cox, 1200003065; Computer Aid Incorporated, 1300002385; Presnell Associates Incorporated QK4, C-03349284-1; GRW Engineers Incorporated, C-99004860-4.

UNIVERSITY OF KENTUCKY:

Sasaki Associates Incorporated, A131070; GBBN Architects, A131160; Grant Cooper & Associates, K13-142.

UNIVERSITY OF LOUISVILLE:

Multi, 13-001 A-H.

VETERANS AFFAIRS, DEPARTMENT OF:

ARH Regional Medical Center, 1200002139.

Workers Claims, Department of:

Underwriters Safety and Claims Incorporated, 1200003050.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Kentucky 4-H Foundation, 1400000248; Kentucky FFA Foundation Incorporated, 1400000249.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Northern Kentucky Community Action, 1400000004; Green River Area Development District, 1400000011.

DEPARTMENT FOR NATURAL RESOURCES:

Kentucky Department of Corrections, 1400000283.

DEPARTMENT FOR PUBLIC HEALTH:

University of Kentucky Research Foundation, 1400000160.

EARLY CHILDHOOD ADVISORY COUNCIL:

Eastern Kentucky Child Care

Coalition, 1300003185; Kenton County Public Library, 1400000148; Madison County Public Library, 1400000190; Boyd County Board of Education, 1400000196; Ohio Valley Education Cooperative, 1400000198.

EDUCATION, DEPARTMENT OF:
Allen County Board of Education, 1300002716; University of Kentucky Research Foundation, 1300002928; Boyd County Board of Education, 1300003039; Jessamine County Board of Education, 1300003054; Johnson County Board of Education, 1300003059; Lawrence County Board of Education, 1300003062; Marshall County Board of Education, 1300003069; Trigg County Board of Education, 1300003077; Union County Board of Education, 1300003078; Jefferson County Board of Education, 1300003177; Southern Regional Education Board, 1400000017; Treasurer Spencer County Board of Education, 1400000028; Dayton Independent Board of Education, 1400000187; Covington Independent Board of Education, 1400000206; Montgomery County Board of Education, 1400000207; Henry County Board of Education, 1400000208; Fayette County Board of Education, 1400000209; Ohio Valley Education Coop, 1400000210; Montgomery County Board of Education, 1400000221; KCTCS, 1400000245; NKU Research Foundation, 1400000259; Martin County Board of Education, 1400000321; Ohio Valley Education Coop, 1400000336.

INFRASTRUCTURE AUTHORITY:
Big Sandy Area Development District, 1400000262.

MILITARY AFFAIRS, DEPARTMENT OF:
Multi, 1300002903.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Providence, 1300002821; Clay County Fiscal Court, 1400000232; Lexington Fayette Urban County Government, 1400000263; City of Wheelwright, 1400000277; City of Madisonville, 1400000314.

STATE POLICE, DEPARTMENT OF:
Kentucky Medical Service, 1300002998; Kentucky Medical Service, 1400000224.

WORKFORCE INVESTMENT, OFFICE OF:
Center for Accessible Living, 1400000126; Independence Place, 1400000138; Independence Place, 1400000139.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:
Multi, 1300001593; Multi,

1300001595; UK Research Foundation, 1300002288.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:
Eastern Kentucky University, 1200002499.

DEPARTMENT FOR PUBLIC HEALTH:
Adanta Group, 1200002252; Bluegrass Regional MHMR Board, Incorporated, 1200002253; Comprehend Incorporated, 1200002254; Cumberland River Reg Mental Health Mental Retardation Board, 1200002256; Four Rivers Behavioral Health, 1200002257; Kentucky River Community Care, 1200002259; Lifeskills, 1200002260; Mountain Comp Care Center, 1200002261; Northern Kentucky MHMR Regional Board Incorporated, 1200002262; Pennyroyal Mental Health, 1200002263; Seven Counties Services, 1200002264.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:
University of Kentucky Research Foundation, 1200001649; Bluegrass GreenSource, Inc., 1300002868.

EDUCATION, DEPARTMENT OF:
Fayette County Board of Education, 1300000093; Glasgow Independent Board of Education, 1300000097; Treasurer Hardin Co Board of Education, 1300000101; Hazard Perry County Community MNS Development Center d/b/a New Beginnings Chile, 1300000105; Hickman County Board of Education, 1300000109; Jackson Independent Board of Education, 1300000111; Letcher County Board of Education, 1300000143; Lyon County Board of Education, 1300000149; Marion County Board of Education, 1300000150; Robertson County Board of Education, 1300000169; University of Kentucky Research Foundation, 1300000802; Simpson County Board of Education, 1300002480.

INFRASTRUCTURE AUTHORITY:
Mountain Water District, 1200002325; Barren River Area Development District, 1400000140; Buffalo Trace Area Development District, 1400000166; Fivco Area Dev District, 1400000167; Gateway Area Development District, 1400000168; Green River Area Development, 1400000170; Kentuckiana Regional Planning & Development Agency, 1400000172; Kentucky River Area Development Chamber of Commerce, 1400000173; Lake Cumberland Area District the Cumberland, 1400000174; Lincoln Trail Area Development District, 1400000175; Northern Kentucky Area Development District, 1400000176; Pennyryle Area Development District, 1400000178; Purchase Area Development District, 1400000179.

MILITARY AFFAIRS, DEPARTMENT OF:
Kentucky State University, 1100001897.

OFFICE OF THE GOVERNOR,

DEPARTMENT FOR LOCAL GOVERNMENT:

Union County Fiscal Court, 1300000628; City of Jackson, 1300002817; Martin County Fiscal Court, 1300002863.

POST SECONDARY EDUCATION, COUNCIL ON:
National Council for Community & Education Partnerships, 1300000917; Berea College, 1300001271.

TRANSPORTATION CABINET:
Kentucky Transportation Center, 1200003115.

WORKFORCE INVESTMENT, OFFICE OF:
Spalding University Entech, 1200003152; Western Kentucky Assistive Technology Center, 1200003156.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

CORRECTIONS, DEPARTMENT OF

Diamond Drugs Incorporated d/b/a Diamond Pharmacy Services, 1400000050. A motion was made by Representative Yonts to defer the contract to the October 2013 meeting of the committee. Representative Horlander seconded the motion, which passed without objection.

ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY

Hiraku Tamura, 1400000137. Holli Spade and Erik Dunnigan discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed without objection.

OFFICE OF INSPECTOR GENERAL

The Eden Alternative Incorporated, 1300002048. Terry Brogan, Sarah McCoun, Connie Payne discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed without objection.

OFFICE OF THE KENTUCKY HEALTH BENEFIT EXCHANGE

Kentuckiana Regional Planning Development Agency, 1400000251; Community Action Kentucky Incorporated, 1400000252; Community Action Kentucky Incorporated, 1400000253; Community Action Kentucky Incorporated, 1400000254; Community Action Kentucky Incorporated, 1400000255. Carrie Banahan and Tammy Bullock discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed with Senators Gregory and McDaniel and Representative Montell voting NO.

POST SECONDARY EDUCATION, COUNCIL ON

Premier Agendas Incorporated,

1400000082. Travis Powell and Yvonne Lovell discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

PERSONNEL-OFFICE OF THE SECRETARY

Winner Resources, LLC, 1300000279. Walt Gaffield discussed the contract with the committee. A motion was made by Representative Montell to consider the contract with the committee. Representative Yonts seconded the motion, which passed without objection.

POST SECONDARY EDUCATION, COUNCIL ON

The Lampo Group Incorporated, 1300000460; Collaborative for Teaching, 1300000995. Travis Powell and Yvonne Lovell discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed without objection.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF
Green River Regional Education, 1400000103; Green River Regional Education, 1400000104; Morehead State University, 1400000149; Bourbon County Board of Education, 1400000182; Bourbon County Board of Education, 1400000291. Charlie Harman and Karen Kidwell discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed without objection.

OFFICE OF THE KENTUCKY HEALTH BENEFIT EXCHANGE

Division of Postal Services, 1400000009. Carrie Banahan and Tammy Bullock discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed with Senators Gregory and McDaniel and Representative Montell voting NO.

With no further business before the committee, the meeting adjourned at 11:13 AM.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE Minutes

September 12, 2013
Call to Order and Roll Call
The Program Review and Investigations Committee met on Thursday, September 12, 2013, at 10:00

AM, in Room 171 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Fitz Steele, Co-Chair; Senators Tom Buford, Perry B. Clark, Julie Denton, Ernie Harris, Jimmy Higdon, Dorsey Ridley, and Dan “Malano” Seum; Representatives Dwight D. Butler, Leslie Combs, Jim DeCesare, Terry Mills, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

Guests: Lt. Col. Keith Percy and Maj. Greg Jenkins, Kentucky State Police Division of Commercial Vehicle Enforcement.

LRC Staff: Greg Hager, Committee Staff Administrator; Colleen Kennedy; Katie Kirkland; Van Knowles; Lora Littleton; Jean Ann Myatt; William Spears; Joel Thomas; Stephanie Love, Jessica Sapp, Graduate Fellows; Kate Talley, Committee Assistant.

Approve minutes for August 1, 2013

Senator McDaniel expressed sympathy to Representative Combs and her family; her father passed away last month. He expressed sympathy to the family of LRC staff member Faurest Coogle, who passed away over the weekend. His dedicated service is greatly appreciated.

Senator Ridley expressed sympathy over the passing of former Senate President Pro Tem William L. “Bill” Sullivan.

Upon motion made by Representative Steele and a second by Senator Harris, the minutes of the August 1, 2013, meeting were approved by voice vote, without objection.

Senator Higden introduced his guests Chris and Lisa Sullivan of Spencer County.

Staff Report: Division of Commercial Vehicle Enforcement’s Authority And Activities Related To Noncommercial Vehicles

Colleen Kennedy, Lora Littleton, and Stephanie Love presented the report. Ms. Kennedy said that what had been the Kentucky Vehicle Enforcement entity was placed within the Kentucky State Police (KSP) in 2009. The Division of Commercial Vehicle Enforcement (CVE) became a fourth division of KSP. Redundancies in mission, personnel, equipment, and rules and regulations were minimized between the state police and the new division.

According to Kentucky State Police and CVE officials, the regional trend is toward less separation between commercial vehicle entities and state police departments. Staff reviewed entities similar to CVE in six other states and compared them with Kentucky. In five of the seven states, including Kentucky, a CVE equivalent entity is under state police control. In South Carolina, the CVE equivalent and the Highway Patrol are separate divisions within the Department

of Public Safety. In Tennessee, CVE is completely merged with the highway patrol.

CVE expended approximately \$20 million in each of the past 6 fiscal years, which closely matched revenues. For FY 2012, \$15.6 million came from the road fund; federal funding, primarily in the form of grants, was \$3.8 million. The remaining \$481,000 came from restricted funds. In FY 2012, salaries, wages, overtime, benefits and other related costs accounted for 69 percent of total CVE expenditures; motor fuel costs accounted for 12 percent. Beginning CVE officers earn \$28,248 per year. Beginning Kentucky State Police troopers earn \$37,382 per year. Of the states reviewed, only Kentucky and Florida had different pay scales for CVE officers and troopers.

With the merger in 2009, the state police department reported a total of \$2.3 million in savings realized. Specific examples of savings from the merger provided by the Kentucky State Police totaled \$1.4 million.

As sworn peace officers, CVE officers have the authority and duty to issue citations to noncommercial vehicle drivers when called for under several Kentucky statutes and under KSP policy. Participation in enforcing noncommercial vehicle laws is also required under certain federal grants. A CVE sworn officer’s required training is nearly equivalent to that of a KSP trooper.

Ms. Love said that CVE officers have the authority to issue citations to noncommercial vehicles during regular patrol duty. They also issue noncommercial citations as part of specific programs. These include participation in national initiatives, as well as Transportation Cabinet assignments made through the state police for patrolling highway construction work zones. Other programs include assignment by Kentucky State Police to patrol special events such as the Kentucky Derby and the state fair and federal grants that require CVE officers to participate in enforcement of noncommercial vehicles.

Operation Safe Driver is an annual national initiative led by the Commercial Vehicle Safety Alliance. It is aimed at decreasing the number of deaths resulting from collisions involving commercial and passenger vehicles.

CVE officers frequently patrol highway construction work zones. Enforcement can focus on commercial or noncommercial vehicle activity. To staff work zone patrol, the Kentucky Transportation Cabinet makes a request to KSP, specifying the work zones to be patrolled and the times that the patrols should occur. KSP may then delegate these patrols to CVE officers. In 2012, CVE officers spent more than 2,200 hours patrolling work zones.

Click It or Ticket is a national initiative conducted annually by the National Highway Traffic Safety Administration during late May and

early June. CVE officers enforce seat belt usage, with the focus on noncommercial vehicles. In 2012, CVE received \$20,000 for this campaign.

CVE participation in Blue Lights Across the Bluegrass and a driving while impaired campaign is mandated as part of several National Highway Traffic Safety Administration grant funding streams. Blue Lights Across the Blue Grass targets speeding, not wearing a seatbelt, not using appropriate child restraints, and other safety violations. A driving while impaired campaign, currently called Drive Sober or Get Pulled Over, targets driving under the influence of alcohol, as well as other safety violations.

According to a US Department of Transportation study, 56 percent of collisions involving a large truck and a passenger car were caused by the passenger car. In response to this, the US Department of Transportation’s Motor Carrier Safety Assistance Program made available two large grants. The purpose of both is reducing the number of crashes involving commercial vehicles. The grant programs aim to do this by enforcing laws against aggressive driving by noncommercial vehicles in areas with a high number of commercial vehicle crashes. In federal fiscal year 2011, the separate corridors and funding for the two grants were combined. The Ticketing Aggressive Cars and Trucks (TACT) program was then applied statewide. Both CVE officers and KSP troopers participate in TACT enforcement. Eighty percent of TACT costs are reimbursed by the federal government. In federal fiscal year 2012, Kentucky was awarded \$250,000 in TACT funds—one-half the amount it had received in previous years.

More states are participating in TACT, thus decreasing Kentucky’s portion of the funds available, and the federal government is reducing the overall amount available for TACT. Of the six other states reviewed, all but Ohio and Tennessee have received TACT grants at some time during 2009 to 2012.

Ms. Littleton said that there were 127 CVE sworn peace officers and 568 Kentucky State Police troopers in 2012 whose primary duties included vehicle and highway safety law enforcement and highway patrol.

In analyzing citations, staff reviewed data from 2009, the first year in which CVE was entirely under Kentucky State Police control, to 2012. From 2009 to 2012, CVE officers issued more than 90,000 noncommercial vehicle citations. In comparison, KSP troopers issued 580,000 such citations, or more than six times as many as CVE officers.

She presented information on the number of citations and citations per officer by year. In 2012, CVE officers

issued more than 22,000 noncommercial citations, and KSP troopers issued more than 176,000. In 2012, on average a CVE officer issued 178 noncommercial citations, and a state police trooper issued 310 noncommercial citations. CVE officers issued more noncommercial vehicle citations than commercial vehicle citations each year. In 2012, CVE officers issued significantly more commercial citations than did state police troopers. In 2012, more than 80 percent of total citations were noncommercial citations issued by KSP troopers. Just over 10 percent of total citations were noncommercial citations issued by CVE officers.

Just over one-half of all noncommercial citations issued by CVE officers were issued under the two federal Motor Carrier Safety Assistance Program High Priority Grants. If the TACT grant becomes unavailable, this could affect the number of noncommercial citations CVE officers issue in future years.

Ms. Kennedy said that the KSP electronic database does not indicate whether citations are issued under a grant such as TACT. CVE staff members use paper summary sheets to manually associate an officer’s activity with specific citations. This is done only for TACT, so noncommercial citations made under other programs or a work zone assignment can only be tracked on a limited basis, estimated, or not counted at all. Determination of the level of effectiveness of particular grants and programs would be facilitated if citations associated with them could be readily identified. Recommendation 3.1 is that KSP and its CVE should develop a method for online tracking of CVE’s noncommercial vehicle citations issued under the auspices of a grant or other program.

CVE officers use electronic and paper citation forms. On both, the citation form contains a checkbox option that allows an officer to check whether the vehicle stopped is a commercial vehicle or a hazardous commercial vehicle. If neither box is checked, the citation enters KSP’s database as a noncommercial citation. To avoid potential errors in identifying noncommercial vehicle citations, it would be preferable if the form had separate checkboxes to indicate whether the citation is noncommercial or commercial. Recommendation 3.2 is that that KSP and its CVE should develop a method by which a CVE officer specifically indicates when a citation is issued to a noncommercial vehicle.

Ms. Littleton said that one citation may include up to nine violations. For example, someone can be cited for speeding, careless driving, and not having an insurance card as part of one citation. More than 44 percent of the noncommercial citations issued by CVE officers contained one violation.

Nearly 44 percent of CVE noncommercial violations statewide were for speeding. The second most common violation was failure to wear seatbelts.

These two accounted for more than one-half of all violations. The other most common violations were for no insurance card, no registration receipt, and no registration plates. These five violations account for nearly 70 percent of violations statewide.

The typical person cited by CVE for a noncommercial violation was a 36-year-old white male who was not Hispanic. More than 90 percent of those cited were white, nearly 9 percent were black, 66 percent were male, and fewer than 2 percent were Hispanic.

Program Review staff analyzed data on noncommercial vehicle activity in each of the six CVE regions. The Kentucky Transportation Cabinet compiles statewide data on estimated daily vehicle miles traveled. In Regions 1, 2, and 3, the region's percentage of state daily vehicle miles traveled was higher than its share of citations and violations. The largest discrepancy was in Region 2, which had 33 percent of statewide daily vehicle miles traveled but only 15 percent of statewide CVE noncommercial violations. Conversely, Region 4 had 8 percent of statewide daily vehicle miles, but 24 percent of CVE noncommercial violations. Region 6 had only 6 percent of statewide daily vehicle miles, but 20 percent of CVE noncommercial violations.

In Regions 1, 2, 3, and 5, speeding violations were at least 50 percent of the total. The percentage of violations that were felony offenses was less than 1 percent in each region.

In response to a question from Senator McDaniel, Ms. Kennedy said that CVE would be able to provide information on the average tenure of a CVE officer.

Senator McDaniel said that the report documents a decline since 2009 in delinquent taxes collected from commercial vehicle impoundments. In response to his question as to why, Ms. Kennedy said the increase in 2009 was due to the merger of KSP and CVE and an increase in weigh station hours. A grant was received in FY 2010 to collect delinquent taxes. One reason for the decline in subsequent years is a decrease in the number of vehicles weighed and inspected.

In response to a question from Senator Higdon, Ms. Kennedy said that Program Review staff could not explain why the number of speeding violations varies by district. Staff analyzed data trends in the report, but defer to CVE for explanation.

In response to questions from Representative Butler, Ms. Kennedy said that staff did not determine the average collection per commercial and noncommercial citation, but that she would see if this information is available.

Senator Buford said that the economic downturn could help explain the decline in truck traffic. Budget constraints could also be a factor.

In response to questions from Senator Seum, Ms. Kennedy said that

training of CVE officers includes Peace Officer Professional Standards (POPS) certification. CVE officers and KSP troopers are nearly equal in terms of training.

In response to a question from Senator Seum, Representative Steele said that the vehicles of CVE officers are tan with blue and yellow stripes. Representative Combs said that the vehicles say "Kentucky Vehicle Enforcement" down the side; they do not say "Kentucky State Police."

Senator Clark said that, given the possible decline in grant funding, he likes the recommendation to identify which grants under which citations are issued. This would help determine which grants are more effective.

In response to a question from Senator Clark, Ms. Kennedy said that Kentucky is receiving smaller TACT grants in part due to success in reducing commercial vehicle crashes.

In response to a question from Senator Clark, Ms. Kennedy said that statistics on commercial vehicle crashes could be provided.

In response to a question from Senator McDaniel, Ms. Kennedy said that CVE could better explain the discrepancy between the \$2.3 million in reported savings from the merger and total itemized savings of \$1.4 million.

Lt. Colonel Peercy and Major Jenkins came to the witness table. Lt. Colonel Peercy said that the primary mission of CVE is commercial vehicles and Kentucky's record in this area is something to be proud of. In 2009, Kentucky was 12th in the nation in commercial vehicle inspections and was 10th in 2010. By 2011, Kentucky was 3rd and was 6th in 2012. The salary disparity between CVE officers and KSP troopers hurts recruitment and retention. He gave examples of officers who left CVE to take other jobs due to pay. This needs to change.

Major Jenkins said that the agency has been moved frequently. It is held accountable in its current organization, which was not always the case in the past.

Senator McDaniel thanked the officers for their service.

In response to a question from Representative Steele, Lt. Colonel Peercy said that he would rate CVE's equipment as a 7 on a 10-point scale. The division bought 25 new vehicles last year and this year and uses 35 percent of its federal funds to buy new vehicles each year.

In response to a question from Representative Steele, Lt. Colonel Peercy said that KSP does not own any x-ray equipment that would facilitate seeing inside trailers.

In response to a question from Representative Steele, Major Jenkins said that scales are calibrated quarterly by a private contractor.

Senator Buford said the x-ray machines can pull up alongside a vehicle and take a picture of what is inside. It would be worthwhile to explore sharing

the cost of the equipment with Indiana. KSP should suggest to legislators the funding that would be needed to increase CVE salaries.

In response to a question from Senator Seum, Lt. Colonel Peercy said that turnover is 6 or 7 CVE officers per year.

In response to questions from Senator Higdon, Lt. Colonel Peercy said that the cost of training an officer could not be determined precisely due the fragmented nature of past training. That will change as training is consolidated. If an officer has a three-year commitment by statute to the division, and the officer returns to the local agency after two years, the local agency is charged a third of the division's investment.

In response to a question from Representative Steele, Major Jenkins said that officers do receive anti-terrorism training.

Representative Mills expressed concern about the use of electronic devices by drivers. Lt. Colonel Peercy said that it is already illegal for commercial drivers to use handheld devices. Accidents decreased in New York when the state prohibited handheld devices for all drivers. Major Jenkins said they have applied for a \$250,000 grant to target phone and seatbelt usage in commercial vehicles, but have not received any notification.

Representative Mills said that he would like KSP to share recommendations on the use of handheld electronics.

Representative Steele said that he would prefer that Trooper Rs keep their jobs. Their experience is priceless. [Trooper Rs are retired troopers brought back on annual contracts.]

Senator McDaniel asked for responses to the two recommendations in the report. Lt. Colonel Peercy said that Recommendation 3.2 would be implemented. Recommendation 3.1 is trickier because there are many grant programs and grant programs change over time. It would be difficult to put specific grants on the citation. He is open to exploring what could be done though.

Senator McDaniel said that he would like CVE to return to report on the status of implementation of recommendations in June or July 2014. Lt. Colonel Peercy agreed to do this. Senator McDaniel said that he would also like to see an update on collection of delinquent taxes at the time. Lt. Colonel Peercy said that the large increase in 2009 followed years in which collections were much lower. Increased enforcement meant that there were fewer uncollected taxes to collect. CVE does on-site, proactive safety meetings with commercial transportation companies. It is hoped that encouraging safety compliance will encourage compliance in general.

Upon motion by Representative Steele and second by Senator Seum, the report was adopted by roll call vote.

Upon motion by Senator McDaniel and second by Senator Harris, the committee approved by voice vote,

without objection, that LRC officials should appear at the October 10 meeting of the committee to describe the LRC anti-sexual harassment policy. This is not to be a discussion of specific cases.

Senator McDaniel announced that due to scheduling conflicts, the December meeting has been rescheduled for December 11, 2013, at 10:00 a.m.

The meeting adjourned at 11:08 a.m.

TASK FORCE ON THE UNIFIED JUVENILE CODE

Minutes of the 3rd Meeting of the 2013 Interim

August 22, 2013

Call to Order and Roll Call

The 3rd meeting of the Task Force on the Unified Juvenile Code was held on Thursday, August 22, 2013, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative John Tilley, Co-Chair; Harry L. Berry, Hasan Davis, Glenda Edwards, Steven Gold, Lisa P. Jones, Bo Matthews, Pamela Priddy, and John Sivley.

Guests: Laurie Dudgeon, Director of the Administrative Office of the Courts; Marty White, KASS; Wayne Young, KASA.

LRC Staff: Ray Debolt, Matt Trebelhorn, Jonathan Scott, Jon Grate, Alice Lyon, Dallas Hurley, Nicole Straus, Mike Clark, Jessica Causey, and Natalie Burikhanov.

Approval of Minutes

A motion by Mr. Gold and seconded by Commissioner Davis was approved by voice vote to adopt the minutes of the July 3, 2013 meeting.

Community Services and Programs

Michelle Sanborn, President of Children's Alliance, and Elizabeth Croney, President of KVC Behavioral Health Care KY, presented on Children's Alliance and its operations throughout Kentucky. Children's Alliance is a non-profit association of 35 children and family service agencies throughout Kentucky who serve abused, neglected, dependent, and status offender youth and their families in every county. It is funded by a variety of entities depending on the service. For example, the Department for Community-Based Services (DCBS) funds residential and therapeutic foster care, while Medicaid funds Psychiatric Residential Treatment Facilities and Community Mental Health Centers.

Children's Alliance is particularly proud of its In-Home Services, which focus on family preservation and preventing children from leaving their communities. These services include intensive Family Preservation, Family Reunification Services, Families and Children Together Safely, and Diversion Services. Ms. Sanborn and Ms. Croney

spoke on the diversion services, which were developed in 2005 through funding from DCBS for teenagers with behavioral problems. This community-based model involves a holistic approach towards addressing issues within the family and individual. Current Diversion Services providers are KVC Behavioral Health Care Kentucky, Specialized Alternatives for Youth, Children's Home of Northern Kentucky, Boys and Girls Haven, and Uspiritus.

Diversion Services involves these multiple institutions to allow for a comprehensive, multi-dimensional evaluation and approach, including services such as therapeutic child support, crisis intervention, 24/7 on-call therapists, and psychological and psychiatric testing. Successes within the Diversion Services include family assessments completed within 96 hours, assessment-driven intervention plans completed within 30 days, family accountability, increase in school attendance, monthly progress reports for DCBS, and post-discharge reports at 3, 6, and 12 months. Ultimately, the speakers attributed the success of the Diversion Services to its flexibility, lower operating costs, and family involvement.

Responding to a question from Mr. Matthews, Ms. Croney said that school involvement in Children's Alliance as helpful and collaborative. The schools are willing to help with educational testing and encouraging greater student participation and attendance.

Children's Home of Northern Kentucky (CHNK) representatives Rick Wurth, CEO, and Julie Raia, Director of Quality Improvement testified about CHNK's approach to child services and their need for additional financial support. CHNK was developed in 2012 as a 2-year pilot program with the goal of "in school and off the street, with families and not behind bars." Mr. Wurth spoke of how secure detention does not work and increases recidivism, risks rehabilitation, and increases criminal behavior while also negatively impacting a child's development, academic achievement, and work performance. Instead, community and evidence-based services allow for greater communication and collaboration among services and individuals involved.

Ms. Raia discussed how CHNK was developed. The variety of stakeholders, which included the General Assembly, Administrative Office of the Courts (AOC), Department of Juvenile Justice, DCBS, schools, and private providers, each brought goals and objectives to CHNK. For example, the state legislature wanted to reduce secure detention for non-violent offenders, schools hoped to reduce truancy and court referrals, and AOC looked towards emphasizing diversion rather than court action. Together these organizations worked together to develop collective desired outcomes embodied by CHNK. Mr. Wurth stated that, for CHNK to be successful, it needed to follow five critical success factors: accessibility,

flexibility in its approach and interventions, family involvement in intervention and education, case management cooperation with service partners, and commitment to a collaborative approach. The Champions Program of CHNK was born from this research, cooperation, and goals.

Ms. Raia testified that, in fiscal year 2012, CHNK achieved its outcomes. For example, 75 percent of truant youths improved attendance, 72 percent of youth with multiple disciplinary referrals improved behaviors, 88 percent of families reported improvement, and 99 percent of those involved stated that they would recommend the Champions Program to others. Mr. Wurth also identified opportunities for improvement, including designing "phases" of services, serving youth with substance abuse issues, and incorporating additional data into evaluations. Ms. Raia then outlined CHNK's requests of the task force: establish a state fund; change policies so that CHNK can access Medicaid directly; and acknowledge the need for collaborative financial investment.

Deputy Ken Kippenbrock, Kenton County Sheriff's Office, and Superintendent Kathy Burkhardt of Erlanger-Elsmere Schools testified about the successes of the CHNK Champions Program.

Responding to a question from Senator Westerfield, Ms. Raia elaborated on the limits of the Child Behavior Checklist assessment. Because the assessment requires six month check-ups and because the Champions Program does not run that long, it is not the most effective assessment tool. Deputy Kippenbrock, in response to Dr. Sivley's concerns about a lack of partnership with additional services, stated that CHNK has had difficulties partnering with other services due to family availabilities and issues.

Rob Jones, Executive Director of Community Action Kentucky, spoke about the organization, which is made up of 23 community agencies with offices in every county. He introduced Carrie Blackham, Director of Family Assistance Services with the Audubon Area Community Services, who discussed the AOC's Teen Court program and its benefits. There are 25 Teen Courts in Kentucky, each run by volunteers and presided over by a judge. Teenagers serve as members of the court and determine sentences with judge approval. It is a low-cost program that serves the youth and communities and works well with status offenders. Ms. Blackham also talked of the need for a Kentucky program to adopt client-specific sentencing memorandums, which would require community service for an offense prior to a sentencing hearing. Jim Farlis of Pennyriple Allied Community Services also spoke on behalf of Family Preservation programs, which operate as community collaborations for children to prevent the risk of removal from their homes and families. Family Preservation helps

families access community resources to address their needs and issues. Mr. Jones assured that these services attempt to reach every community, including rural areas.

Kelly Conley, Grayson Program Director for NECCO, discussed the organization, which has been operating for 17 years as a private childcare provider. NECCO has nine regional offices in Kentucky and serves 1300 children through DCBS and Department of Juvenile Justice (DJJ) services. The organization provides individual county or program contracts for services such as drug testing, ankle monitoring, and community service supervision, and operates the Prevent Child Abuse Kentucky Parenting Program, which has two 12-week programs. Past programs have been lost due to funding costs, but they included the Family Preservation Program, intensive in-home services, Anger Management, Theft Prevention, and Substance Abuse Prevention. Ms. Conley compared the cost of secure detention (\$210/day) to the cost of NECCO services (ranging from \$78 to \$22/day) and emphasized the need for the programs and their continued funding.

The PEW Charitable Trusts

The Co-Chairs briefly introduced the PEW presentation by discussing the task force's new working relationship with PEW. To reduce total prison and juvenile detention populations throughout the state, the task force has partnered with PEW to research possible avenues of action. Sonja Hallum, Senior Associate of the Public Safety Performance Project with PEW, continued this overview by stating that the project works with states to advance data-driven, fiscally sound policies and practices in the criminal and juvenile justice systems and helps the states to identify critical solutions. The project has worked with 24 states, and the juvenile project began last year. The goals include protecting public safety, holding offenders accountable, and controlling corrections costs, although the means to achieve these differ by state. The process requires continuous stakeholder engagement and a three-step process of data analysis and system assessment, policy development, and consensus building.

Ms. Hallum stated that the Kentucky Juvenile Correction Project is in its infancy and is beginning the step of data analysis by processing many questions. Preliminary insights indicate that, like the majority of states, Kentucky's youth out-of-home placement population post-adjudication has declined by 41 percent over the past ten years. However, over half of the DJJ budget goes towards out-of-home or facilities placement and youth with misdemeanors and violations make up most of those placed in these facilities.

Ohio, Texas, and Georgia were referenced as examples of juvenile justice

reform efforts in the United States. The former two implemented fiscal incentive programs, while the latter developed a process towards justice reform efforts. Following a 40 percent increase in the state's juvenile custody population and its juvenile institutions operating at 180 percent capacity, Ohio created the RECLAIM Ohio program in 2010. Incentives are given to the top six counties with the most juvenile offenders to reduce their numbers and increase the use of community-based alternatives. The state saw a reduction in recidivism, specifically in low to moderate-risk youth, as well as \$50 million in averted annual costs.

In Texas, state facilities experienced a tripling of committed youth over eight years. In response, the state passed SB 103 in 2007 that would restrict commitment to the state for misdemeanor offenses, and in 2009, Texas created the Commitment Reduction Program to provide fiscal incentives to local probation departments. New funding for local programs were given to counties, totaling \$84.5 million over three years, which led to a 27 percent decline in juvenile arrests and a 62 percent decline in total average daily facility population.

In 2011, Georgia created the Special Council on Criminal Justice Reform for Georgians, which attempted to address adult sentencing and corrections reforms. The Special Council found that there was an inconsistent use of risk- and needs-assessment tools, lack of community-based options, and a lack of uniform and consistent data collection. Policy recommendations included a focus on residential facilities on higher level offenders, a reduction in recidivism, an improvement in government performance, and greater oversight; these changes are expected to save about \$85 million through 2018, with \$17 million redirected into evidence-based community programs and specialty courts. Ms. Hallum concluded by repeating the task force's goals for Kentucky: improving public safety by reducing recidivism, holding offenders accountable, and controlling costs.

The meeting was adjourned at 11:45 AM.

TASK FORCE ON THE UNIFIED JUVENILE CODE

**Minutes of the 4th Meeting
of the 2013 Interim
September 4, 2013**

Call to Order and Roll Call

The 4th meeting of the Task Force on the Unified Juvenile Code was held on Wednesday, September 4, 2013, at 1:00 PM, in Room 154 of the Capitol Annex. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative John Tilley, Co-Chair; Harry L. Berry, Hasan Davis, Laurie Dudgeon for Justice Mary Noble, Glenda Edwards, Steven

Gold, Teresa James, Lisa P. Jones, Bo Matthews, Pamela Priddy, and John Sivley.

Guest Legislator: Representative Dennis Horlander.

Guests: Wayne Young for KASA; Erik Jarboe for LearNet; Marty White for KASS; and Clyde Caudill for KASA and JCPS.

LRC Staff: Jon Grate, CSA, Matt Trebelhorn, Jonathan Scott, Jessica Causey, Mike Clark, and Cindy Smith.

Approval of Minutes

There was a motion by Mr. Mathews to approve the minutes of the August 22, 2013 meeting. The motion was seconded by Mr. Davis and approved by voice vote.

Juvenile Corrections System Drivers Analysis

Pamela Lachman, Senior Associate, Research, Public Safety Performance Project, and Sonja Hallum, Senior Associate, State Policy, Public Safety Performance Project, presented an overview of the Kentucky juvenile corrections system drivers. Ms. Lachman reported that more than half of the Department for Juvenile Justice (DJJ) population is in the community, with only 40 percent being in out of home care. With 60 percent of the population in the community, only 21 percent of the budget is spent in the community, with more than half of the budget going to out of home care and detention. DJJ spends more than 55 percent of its \$102 million budget on out of home placement and detention. Ms. Lachman noted that a majority of the beds cost over \$87,000 per year, and that beds in group homes are the most expensive, costing over \$97,000 per year.

A majority of the youth out of home are in a youth detention center or boot camp. Even though the out of home population has gone down in the last decade, there has been a recent spike, with a 16 percent increase from 2012-2013. There are differing trends in out of home placement types, and the majority decline has been in group homes, which is down 69 percent from 2002-2013. The community supervision population is also down, with a 36 percent decline from 2002-2013.

Ms. Lachman gave an overview of the DJJ population in detention. Public offenders use a majority of detention beds, with only 13 percent going to status offenders. Public offenders also have the most bookings, with longer stays. Public offenders stay 2.4 times as long as status offenders.

Ms. Lachman discussed characteristics of youth disposed to DJJ. The number of youth disposed to DJJ is falling, with a 22 percent decline in the past decade. The majority of the population is male, with only 15 percent being female. There are slightly older youth in 2012 than in 2002, and the increasing proportion of youth disposed to DJJ is misdemeanants and violators. Misdemeanors and probation violations are top offenses.

Ms. Lachman discussed placement trends of youth disposed to DJJ. She reported that a majority of the youth spend time out of home, with misdemeanants and violators being the majority in each placement. In youth detention centers and boot camps, the proportion of misdemeanants and violators is increasing. In the community, there is also a decline in the number of felons, down 13 percent since 2002. Probation violations are now the most common offense prior to out of home placement. Youth level of service profiles vary by placement type, with the majority being moderate risk.

Ms. Lachman discussed the length of state of youth disposed to DJJ. Even though cases are open for a shorter amount of time, there is more involvement. Over 40 percent of DJJ cases are closed after the youth turns 18. There is a slightly longer stay in out of home placement despite the recent decline, with stays having a 6 percent increase from 2002-2012. Length of stay is down in youth detention centers, but up in group homes, but there is little difference in length of stay in youth detention centers and boot camps. Out of home length of stay is up across all offense types.

Responding to a question by Mr. Mathews, Ms. Lachman said that a schools day treatment facility funding comes out of the community budget.

Responding to a question by Ms. Priddy, Ms. Lachman said in the last year there has been a slight uptick in the out of home placement population, with a 16 percent increase from 2012-2013.

Responding to a question by Senator Westerfield, Ms. Lachman said that youth detention centers have 444 beds, the regional detention center capacity is 356 beds and group homes have an 80 bed capacity.

Responding to a question by Senator Westerfield, Ms. Lachman said that boot camps are considered youth detention centers. They are designed for male youth to spend 4 months in the facility and then 4 months in the community in an aftercare program.

Responding to a question by Representative Tilley, Ms. Lachman said that she would discuss the specifics of what is involved in a youth detention center and boot camp setting in future presentations.

Responding to a question by Senator Westerfield, Ms. Lachman said that the 1 percent undefined group that is mentioned has no status reported, but they are believed to be public offenders.

Responding to a question by Commissioner Davis, the average number of days is 6.4, and the length of stay is 15-20 days.

Responding to a question by Judge Jones, Ms. Lachman said that status offenders are stay until they can be released to parents, or because of a valid court order of incarceration.

Responding to a question by Senator

Westerfield, Ms. Lachman said that there are very few youth offenders under the age of 11.

Responding to a question by Senator Westerfield, Ms. Lachman said that she will provide information on what classes of felonies exist, and if more are drug offenses or property offenses, and she will provide that information by geographic breakdown.

Responding to a question by Senator Westerfield, Ms. Lachman said that all the areas are in separate budget selections.

Responding to question by Senator Westerfield, Ms. Lachman said that she will discuss the recidivism rates in later slides, but the information she can share is limited. She said that, in regard to looking at prior history and prior offenses as well as risk level, she is looking at the best way to measure recidivism rates to most accurately reflect the youth's prior history.

Responding to a question by Senator Westerfield, Ms. Lachman said that the 10 most restrictive out-of-home placements will be broken down by region.

In response to a question by Representative Horlander, Ms. Lachman said the percentages mentioned are a percentage of the total number of youth disposed to DJJ or youth in a specific placement.

In response to a question by Mr. Gold, Ms. Lachman said she is looking at what types of violations are occurring, whether they are technical or new offenses. DJJ is only required to bring a probation violation back to court for an AWOL case or a new offense.

In response to a question by Senator Westerfield, Ms. Lachman said she will address high risk youth and detention stays in the next presentation that deals with research on evidence based practice and what types of placements are best for certain types of youth.

In response to a question by Ms. Edwards, Ms. Lachman said that probated youth are already under DJJ supervision.

In response to a question by Judge Jones, Ms. Lachman said the Project could break down the data for 18 year olds once they are disposed to aid with recidivism data.

In response to a question by Senator Westerfield, Ms. Lachman said Kentucky is holding the misdemeanants and felons for the same amount of time. She noted that for the next meeting she will summarize where the youth are, what CDWs do, and how youth are ending up with DCBS.

Ms. Hallum discussed future presentations. There are three pieces to the next presentation. It will consist of part II of the drivers analysis and systems assessment, which will give the big picture flow through the systems. The information will also address questions asked during the meeting, including the drivers of the out of home populations, and research on best practices addressing juvenile defenders.

Responding to a question by Dr. Sivley, Ms. Lachman said she

would research if there is evidence or findings to indicate that certain levels of restrictiveness are any more beneficial than community based treatment.

Judge Jones added that it would be beneficial to find out the original offenses of the children committed to the cabinet as status offenders. Senator Westerfield commented that was a good request and he has no way to quantify how many children committed there are not being reported somewhere else. Ms. Dudgeon said AOC would be able to help with some of the date for that request.

Ms. Hallum added that the next presentation will consist of the data piece and a systems assessment piece since the organization is looking at the entire system for Kentucky. She does not have necessary data from the cabinet, but there has been a workgroup created to pull the data together.

Commissioner James noted that DCBS and DJJ's numbers do not look dramatically different in terms of residential care and more intensive, restrictive environments. She would jointly like to see more in-home services and more community-based services. There is a vast amount of data at DCBS, which she looks forward sharing.

Senator Westerfield said that any Department for Education data that would not show up anywhere else could be submitted that as well. Commissioner Davis said that, if the Department for Education tracks referrals through the court, AOC would get that information and be able to track it. Representative Tilley asked for the schools to submit any data that would be relevant to the task force. Laurie Dudgeon said that AOC does not have suspension data that does not show up in a complaint.

In response to a question by Ms. Edwards, Ms. Lachman said that the average detention length of stay is 6.4 days, and the vast majority of status offenders are contempt or in violation of a court order. Some youth are there as pre-adjudication for a status offense, and there are also youth disposed of at detention, which can also increase the length of stay. She said it can be looked into in more detail, but she is limited by the data.

In response to a question by Judge Jones, Ms. Lachman said she will look at how Kentucky divides up jurisdictions, and if there is a difference in the treatment of delinquents. She said when they integrate the information, she will look into which counties fall into what district and which districts are Circuit Court only, rather than Circuit and Family Court.

Mr. Gold said that, in Henderson, school wide information data told what interventions happened and what behaviors were displayed at the school level.

Commissioner Davis said Kentucky has a system that is doing more harm than good. The data will help move Kentucky in a new direction without

question and debate. The big picture is that all children in Kentucky should be safe, supported, and prepared to be successful.

Representative Tilley said problems with the juvenile justice system have been building for some time. It is a huge system with multiple moving parts, and the work of the task force will move the system to a better place.

The meeting was adjourned at 2:45 p.m.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE Minutes

September 4, 2013

Call to Order and Roll Call

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, September 4, 2013, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Wilson Stone, 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, Jimmy Higdon, Robin L. Webb, and Whitney Westerfield; Representatives Tom McKee, Terry Mills, and Jonathan Shell.

Guests: Roger Thomas, Joel Neaveill, Bill McCloskey, Angela Blank, and Brian Murphy, Governor's Office of Agricultural Policy; Dr. Donald Miller, Brown Cancer Center at the University of Louisville; Dr. B. Mark Evers, Markey Cancer Center at the University of Kentucky.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Kelly Blevins.

The August 7, 2013, minutes were approved without objection by voice vote, upon a motion by Senator Hornback and second by Senator Westerfield.

Kentucky Lung Cancer Research Program

Dr. B. Mark Evers, Director, Markey Cancer Center at the University of Kentucky and Dr. Donald Miller, Director of the Brown Cancer Center at the University of Louisville Hospital, provided the annual update on the Kentucky Lung Cancer Research Program.

Dr. Evers discussed how tobacco settlement funds are used by the Markey Center, noteworthy cancer and smoking-related research, and the designation of the Markey Center as a National Cancer Institute approved center. Dr. Miller discussed the prevalence of cancer in Kentucky, the importance of the tobacco settlement funds for the Brown Cancer Center, and significant research projects.

Drs. Evers and Miller responded to questions about the coverage of smoke-free ordinances in Kentucky and the impact of those ordinances, lung cancer mortality rates, the lung cancer research program's use of tobacco settlement funds, and research into the health effects of electronic cigarettes (e-cigarettes).

Responding to Representative McKee, Dr. Evers said more smoke-free

ordinances have been adopted in Kentucky compared to some surrounding states, but he said that Kentucky still has the highest lung cancer death rate among states. As for any correlation between the passage of the ordinances and any decline in lung cancer death rates, Dr. Evers said most smoke-free ordinances have been adopted only in the past two or three years.

In a subsequent response to a question from Senator Westerfield, Dr. Evers said he has seen declines in lung cancer incidences in cities where the smoke-free ordinances have been adopted, but declines have not been seen in rural areas. He said this could be related to second-hand smoke either in workplaces or at residences.

Dr. Evers responded to Senator Higdon that smoke-free lobbying efforts are undertaken in communities that are considering smoke-free ordinances.

Dr. Miller responded to Representative Stone that lung cancer mortality rates have declined one to one and one-half percent per year since 1990, but he noted the difficulty in correlating those declines with continuing decreases in smoking rates. When someone quits smoking, his or her chances of succumbing to lung cancer also decline, but only over a long period of time.

Dr. Miller also indicated to Representative Stone that while lung cancer rates are generally coming down, strides also are being made in treating the disease. Dr. Evers pointed out, too, that incidences of other cancers are dropping, with much credit going to screening. For example, Kentucky used to have high colorectal cancer rates, but now ranks 20th among states because of prescreening efforts.

Mr. Miller told Senator Gibson that the tobacco settlement funds are used mainly to help pay for scientific research and sponsor individual research projects. Another use includes outreach. The funds have covered a number of projects that focus on cancer prevention.

Dr. Miller provided additional details to Representative McKee about the cervical cancer vaccine being developed with the use of tobacco plants grown in the Owensboro area. The Brown Cancer Center has teamed with the Owensboro Medical Health System in the drug development project.

Responding to Senator Hornback, who said he was acquainted with someone who was conducting research on a cure for cancer, Dr. Miller pointed out that considerable research is being undertaken through curing cancer through gene manipulation.

Senator Webb told the cancer center directors that some local jails are providing e-cigarettes to inmates, but she could not find much valid research on the health effects of the devices. Dr. Evers responded that e-cigarettes are the subject of a Markey research grant. He said that current research on e-cigarettes shows using the devices may be as dangerous

and unhealthy as smoking cigarettes.

Governor's Office of Agricultural Policy

Mr. Roger Thomas, Executive Director, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), testified about project funding decisions made by the Agricultural Development Board (ADB) during its August meeting. Ms. Angela Blank, Director of Public Affairs, also described the agenda for the October GOAP conference in Bowling Green, which also will include a meeting of the Tobacco Settlement Agreement Fund Oversight Committee.

Mr. Thomas reviewed funding allocations for the previous month under the County Agricultural Improvement (CAIP) and Deceased Farm Animal Disposal Assistance programs. He responded to Representative Stone that one county was contracting with a company to haul dead livestock to a fertilizer plant, while another has its own disposal system.

Mr. McCloskey reviewed the latest allocations approved under the On-Farm Energy Program. Matching grants are generally used by state farmers to increase energy efficiency and renewable energy production.

Referring to the list of project awards, Senator Webb pointed out there were no energy projects east of Interstate 75. She knows there are people who would qualify and suggested there is a "breakdown somewhere."

Chairman Stone cited the prevalence of farming west of Interstate 65.

Mr. Thomas described some future county-level meetings in northeast Kentucky in which the issue would be discussed.

GOAP officials told Senator Hornback that one recipient appearing twice on the list consisted of a farm operated by two persons who sought separate cost-share grants.

Responding to Representative McKee, Mr. Thomas said the future of the energy grant program will be determined by the board and the Governor, whose office had provided some of the energy grant moneys in the past under the federal stimulus program. Mr. Thomas said he hoped the board would consider another round of funding taking into account the challenges of getting more funds into eastern Kentucky.

Commenting on the grants, Chairman Stone compared the effect of the energy funds to the cattle handling facility Agricultural Development Fund investments, which prompted others who saw the effectiveness of the facilities to make investments on their own.

Mr. Thomas observed that the energy grants had an economic impact in areas affected because of the cost-share spending that was done.

The GOAP officials described another project approved at the recent board meeting, the Owen County 4-H Club Council, approved for \$20,000 in

Owen County funds for a youth cost-share livestock production program.

Following the project reviews, Ms. Blank provided details on the late October event, which will begin with an Agricultural Development Board meeting on October 29.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting adjourned at approximately 11:30 a.m.

(including a well-publicized incident early this year in Parachute, CO), FitzGerald said he agrees with Peters' staff that the Bluegrass Pipeline does not qualify to invoke Kentucky's eminent domain statute.

But FitzGerald said Kentucky landowners will continue to feel "the threat of condemnation" by the pipeline companies until more protection is placed in state law.

No official action was taken on the issue by the committee at the meeting.

2014 Prefiled Bills

BR 1 - Representative Diane St. Onge, Representative Brent Yonts (04/11/13)

AN ACT relating to drone surveillance.

Create a new section of KRS Chapter 500 to define "drone," "law enforcement agency," and "prohibited agency"; prohibit a law enforcement agency from using a drone to gather evidence or other information; provide exceptions; prohibit use of evidence obtained in violation; provide that the Act may be cited as the "Citizens' Freedom from Unwarranted Surveillance Act."

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 7 - Representative Jeff Greer (05/15/13)

AN ACT relating to confirmation of executive appointments.

Amend KRS 304.2-020 to delete the requirement for Senate confirmation of the Governor's appointment of the commissioner of the Department of Insurance; and amend KRS 342.228 to delete the requirement for Senate confirmation of the Governor's appointment of the commissioner of the Department of Workers' Claims.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 9 - Representative Joni L. Jenkins (09/09/13)

AN ACT relating to alcohol and drug counseling.

Create new sections of KRS 309.080 to 309.089 to establish the requirements for an applicant for registration as an alcohol and drug peer support specialist; mandate that an alcohol and drug peer support specialist complete 500 hours of board-approved experience with 25 hours under the direct supervision of a certified or licensed clinical alcohol and drug counselor with at least two years of post-certification or post-licensure experience; require an alcohol and drug peer support specialist to pass an examination approved by the board; mandate completion of three hours of domestic violence training, specify other hours of training required, and obligate applicant to live or work at least a majority of the time in Kentucky; mandate that a registered alcohol and drug peer support specialist comply with the requirements for the training program in suicide assessment, treatment, and management; establish requirements for an applicant for licensure as a licensed clinical alcohol and drug counselor with a 60 hour master's degree, or a doctoral degree, including completion of 2,000 hours of board-approved experience, 300 hours of which is under direct supervision

of a licensed clinical alcohol and drug counselor; require a licensed clinical alcohol and drug counselor to pass a written examination approved by the International Certification Reciprocity Consortium on Alcoholism and Drug Abuse; include requirement for three hours of domestic violence training and for an applicant to live or work at least a majority of the time in Kentucky; mandate that a licensed clinical alcohol and drug counselor comply with the requirements for the training program in suicide assessment, treatment, and management; direct the board to promulgate administrative regulations to define the registration process for applicants and for supervisors of record; establish supervision required for a practicing registered alcohol and drug peer support specialist; establish reciprocity; set up revolving fund; amend KRS 309.080 to define "licensed clinical alcohol and drug counselor," "licensee," "practice of alcohol and drug counseling," "registered alcohol and drug peer support specialist," and "registrant"; amend KRS 309.0813 to conform and to delete the requirement for the board to establish an examination committee to administer and evaluate the case method presentation and oral examination; add the requirement for the board to collect and deposit all fees, fines, and other moneys owed to the board into the State Treasury to the credit of a revolving fund; amend KRS 309.083 to change the requirements of supervision for a certified alcohol and drug counselor applicant, permitting supervision from a certified alcohol and drug counselor or licensed clinical alcohol and drug counselor with at least two years of post-certification or post-licensure experience; delete the requirement for a certified alcohol and drug counselor to pass an oral examination approved by the board; mandate three hours of domestic violence training for a certified alcohol and drug counselor; require a certified alcohol and drug counselor applicant to live or work at least a majority of the time in Kentucky; mandate that a certified alcohol and drug counselor comply with the requirements for the training program in suicide assessment, treatment, and management; amend KRS 309.084 to grant, upon application within 90 days from the effective date of this Act, licensure as a licensed clinical alcohol and drug counselor for a certified alcohol and drug counselor with a master's degree or a doctoral degree meeting all requirements for the clinical designation except for the 60-hour requirement for the master's degree and the examination; amend KRS 194A.540, 210.366, 222.005, 309.0805, 309.081, 309.085, 309.086, 309.087, and 309.089 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 23 - Representative Larry Clark,

Representative Jeffery Donohue (07/12/13)

AN ACT relating to reporting on economic incentive programs.

Create a new section of Subchapter 12 of KRS Chapter 154 to require the cabinet to maintain a searchable electronic database containing information on the cost and status of economic incentive programs; specify programs and information to be included; apply to specified programs approved within last five years; require in addition a single annual written report for programs approved in preceding fiscal year; specify programs and information to be included; amend KRS 148.546, 148.8591, 154.12-100, 154.12-208, 154.12-278, 154.20-150, 154.27-050, and 154.31-030 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Economic Development and Tourism

BR 40 - Representative Hubert Collins (06/27/13)

AN ACT relating to driving under the influence.

Amend KRS 189.520, 189A.010, 189A.120, and 281A.2102 to move the per se DUI threshold from 0.08 to 0.05.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 42 - Representative Brent Yonts (07/19/13)

AN ACT relating to the collection of delinquent taxes.

Amend KRS 44.030 and 131.560 to prohibit the offsetting of a person's financial claim against the state or a local government, including claims for individual income tax refunds, to satisfy a delinquent property tax debt owed to the state or any local government if the 11-year period established for liens on the property on which the tax has become delinquent has expired; amend KRS 134.015 to extinguish the personal debt of a taxpayer for delinquent property taxes upon the expiration of the 11-year period established for liens on the property on which the taxes have become delinquent; amend KRS 134.490 to clarify that a third-party purchaser of a certificate of delinquency may institute an action to collect on the certificate anytime after the 1-year tolling period but prior to the 11-year period established in KRS 134.546; amend KRS 134.546 to provide that a certificate of delinquency becomes null and void 11 years from the date when the taxes became delinquent.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 53 - Representative Terry Mills

<p>(06/11/13)</p> <p>AN ACT relating to problem, compulsive, or pathological gambling and making an appropriation therefor.</p> <p>Amend KRS 222.005 to define “pathological gambling” and “problem gambling”; create new sections of KRS Chapter 222 to establish the Problem and Pathological Gamblers Awareness and Treatment Program; direct the use of funds and limit annual administrative costs to \$200,000; establish the Gamblers Awareness and Treatment Program Advisory Council; establish the council’s membership and responsibilities; require the Cabinet for Health and Family Services to promulgate administrative regulations in collaboration with the council; establish a funding and application process, certify disbursement of funds, and require reports annually; assign responsibilities to the director of the Division of Behavioral Health; amend KRS 222.001 and 222.003 to conform; APPROPRIATION.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on State Government</p> <p>BR 64 - Representative Fitz Steele, Representative Leslie Combs (07/11/13)</p> <p>AN ACT relating to coal severance revenues and declaring an emergency.</p> <p>Amend various sections in KRS Chapter 42 to distribute 100% of coal severance revenues among the coal producing counties on the basis of the tax collected on coal severed or processed in each respective county; amend KRS 143.090 and 164.7891 to make conforming changes; repeal KRS 42.490; EMERGENCY.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Appropriations and Revenue</p> <p>BR 78 - Representative Ron Crimm (07/19/13)</p> <p>AN ACT relating to the promotion of organ and tissue donation.</p> <p>Create a new section of KRS Chapter 141 to establish the employers’ organ and bone marrow donation tax credit; amend KRS 141.0205 to provide the ordering of the credit; declare short title to be the Living Organ and Bone Marrow Donor Assistance Act.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Appropriations and Revenue</p> <p>BR 79 - Representative Ron Crimm (09/16/13)</p> <p>AN ACT relating to animals.</p> <p>Amend KRS 525.125, 525.130, and 525.135 to forfeit ownership of animals involved in cruelty and torture cases and prohibit ownership or possession of animals of the same species for two years.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Judiciary</p> <p>BR 99 - Representative Lynn Bechler (08/20/13)</p>	<p>AN ACT relating to motor fuels taxes.</p> <p>Amend KRS 138.210 to remove any adjustment to the “average wholesale price” without the direct action of the General Assembly.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Appropriations and Revenue</p> <p>BR 100 - Senator John Schickel (09/17/13)</p> <p>AN ACT relating to naloxone.</p> <p>Amend KRS 217.186 to allow peace officers, firefighter, paramedics, and emergency medical technicians to use naloxone at the scene of a narcotic drug overdose.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Judiciary</p> <p>BR 102 - Representative Addia Wuchner, Representative Denver Butler (08/23/13)</p> <p>AN ACT relating to weapons.</p> <p>Amend KRS 237.140, relating to concealed carry licenses for retired peace officers issued in conformity with the federal Law Enforcement Officers Safety Act to allow the annual license to be extended in yearly increments up to four times before a new license is issued.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Judiciary</p> <p>BR 116 - Representative Rick G. Nelson (08/13/13)</p> <p>AN ACT relating to sales and use tax holidays and declaring an emergency.</p> <p>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.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Appropriations and Revenue</p> <p>BR 117 - Representative Rick G. Nelson (08/08/13)</p> <p>AN ACT relating to the employment of public school teachers.</p> <p>Amend KRS 160.345 to require teacher vacancies to be filled by qualified teachers certified through a regular certification program before considering applicants certified through an alternative certification program.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Education</p> <p>BR 118 - Representative Fitz Steele, Representative Julie Raque Adams (08/20/13)</p> <p>AN ACT relating to sales and use tax holidays and declaring an emergency.</p> <p>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,</p>	<p>computers, and school computer supplies; EMERGENCY.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Appropriations and Revenue</p> <p>BR 119 - Representative Fitz Steele (08/20/13)</p> <p>AN ACT relating to dextromethorphan abuse.</p> <p>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 misrepresenting their age and from utilizing a fraudulent ID to purchase or obtain dextromethorphan; establish penalties for violation.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Judiciary</p> <p>BR 121 - Representative Tom Burch (09/12/13)</p> <p>AN ACT relating to consolidated local government funds.</p> <p>Create a new section of KRS Chapter 67C to define “discretionary funds” and to require any discretionary fund expenditures to be distinctly specified in the budget ordinance or budget amendment ordinance of the consolidated local government before expenditure.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Local Government</p> <p>BR 123 - Representative Terry Mills (09/19/13)</p> <p>AN ACT relating to injury prevention and making an appropriation therefore.</p> <p>Amend KRS 189.292, prohibiting texting while driving, to prohibit the entering of a telephone number or name into a personal communication device in order to place a call while driving a vehicle in a highway work zone or school zone; amend KRS 189.990(30) to make technical corrections; increase the fines for violations of Section 1 of the Act and KRS 189.294 to \$50 for the first offense and \$100 for subsequent offenses; direct that 50% of the fines collected for violations of these offenses be directed to the Kentucky Injury Prevention and Research Center at the University of Kentucky and appropriate the funds for the purpose of injury prevention research; APPROPRIATION.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Transportation</p> <p>BR 126 - Representative Mike Harmon</p>	<p>(09/27/13)</p> <p>AN ACT relating to driving under the influence.</p> <p>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.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on Judiciary</p> <p>BR 127 - Representative Mike Harmon (09/27/13)</p> <p>AN ACT relating to elections.</p> <p>Amend KRS 118.127 to permit a slate of candidates for Governor and Lieutenant Governor to appear on the ballot only in the general election, not in the primary; require a party’s nominee for Governor to designate his or her nominee for Lieutenant Governor no later than the fourth Tuesday following the primary; if this designation is not filed, require the governing authority of the party to name the candidate for Lieutenant Governor; set forth the oath to be sworn by a slate of candidates; create a new section of KRS Chapter 118 to allow a candidate for Governor to designate a replacement if the candidate for Lieutenant Governor dies, is disqualified, or is disabled; amend KRS 121.015 to redefine “slate of candidates”; amend KRS 117.275, 118.025, 118.105, 118.125, 118.245, 120.055, 120.095, and 121.170 to conform; repeal KRS 118.227.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on State Government</p> <p>BR 129 - Senator Jimmy Higdon (10/03/13)</p> <p>AN ACT relating to eminent domain.</p> <p>Amend KRS 278.502 to allow eminent domain to be used only in cases where the condemnor is a utility regulated by the Public Service Commission.</p> <p>(Prefiled by the sponsor(s).)</p> <p>BR 132 - Senator Jared Carpenter (09/06/13)</p> <p>AN ACT related to anti-bullying.</p> <p>Create a new section in KRS Chapter 2 designating October as Anti-Bullying Month in Kentucky and a purple and yellow ribbon as the symbol for anti-bullying awareness.</p> <p>(Prefiled by the sponsor(s).) To: Interim Joint Committee on State Government</p> <p>BR 138 - Representative Wilson Stone (08/23/13)</p> <p>AN ACT relating to TVA in-lieu-of-tax payments, making an appropriation therefor, and declaring an emergency.</p> <p>Amend KRS 96.895 to provide that, beginning in fiscal year 2014-2015, a portion of the Tennessee Valley</p>
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Authority in-lieu-of-tax payment made to the Commonwealth and deposited into the general fund shall be transferred to the regional development agency assistance fund to be distributed among fiscal court-designated local industrial development authorities for economic development and job creation activities; provide that the transfer will not affect the portion of the total TVA payment that is currently distributed among local government entities; provide that these transfers will be phased-in over a five-year period, with an amount equal to 50 percent of the general fund portion of the total TVA annual payment being transferred in fiscal year 2018-2019, and each fiscal year thereafter, not to exceed \$6,000,000 each year; APPROPRIATION; EMERGENCY.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Appropriations and Revenue

BR 140 - Representative Rick G. Nelson (08/28/13)

AN ACT relating to firefighters. Create a new section of KRS Chapter 95 establishing a rebuttable presumption that cancer, resulting in either temporary or permanent disability or death, is an occupational disease for full-time firefighters; establish the guidelines for compensation; establish the types of carcinogens associated with specific types of cancers.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Labor and Industry

BR 152 - Representative Jim Wayne (09/30/13)

AN ACT relating to tax credits for noise abatement. Create a new section of KRS Chapter 141 to establish a tax credit for noise insulation installed in a residential structure that is located within a designated airport noise contour; amend KRS 141.0205 to recognize credits.

(Prefiled by the sponsor(s).)
BR 158 - Representative Sannie Overly, Representative Brent Yonts (09/11/13)

AN ACT relating to the legislative branch of state government. Amend KRS 6.611 to implement the “no cup of coffee” rule for legislators, limit allowable payments for attendance of individual legislators to events held in-state, define “in-state” and include administrative regulations and legislative proposals not introduced in the General Assembly to the definition of “legislation”; amend KRS 6.701 to specify that sexual and workplace harassment information is to be part of the legislative ethics manual and training program, and specify that the training for legislators is to be conducted by an individual chosen by the deputy director of human resources; amend KRS 6.711 to specify that sexual and workplace harassment law and policy is to be part of the general curriculum of the legislative orientation courses, make sexual and workplace harassment training mandatory for legislators, specify that the training is to be conducted by a live

presenter, expand the orientation training requirement to five hours, and require that two of the five hours of the orientation course is to be devoted to sexual and workplace harassment law and policy; amend KRS 6.716 to include updates on sexual and workplace harassment in the current issues seminar for legislators, and specify that one of the three hours of the current issues seminar is to be devoted to sexual and workplace harassment training; amend KRS 6.747 to specify that the legislative agent or employer may not furnish out-of-state transportation or lodging for a legislator with certain exceptions; amend KRS 6.767 to prohibit a legislator, candidate, or campaign committee from accepting a campaign contribution from an executive agency lobbyist, or an employer of a legislative agent or executive agency lobbyist during a regular session of the General Assembly, except for a special election held during a regular session of the General Assembly; amend KRS 6.811 to prohibit a legislative agent or employer to give anything of value to a legislative candidate, prohibit a legislative agent from soliciting, controlling, or delivering a campaign contribution, prohibit an employer of a legislative agent from making a campaign contribution to a legislator, candidate, campaign committee, or caucus campaign committee during a regular session of the General Assembly, and delete language allowing legislative agents and their employers to purchase food or beverages for legislators not to exceed \$100 (“no cup of coffee” rule); amend KRS 6.821 to conform, and to include the cost of advertising during a General Assembly by an employer of a legislative agent or their affiliates in the employer’s statement filed with the Legislative Ethics Commission; create a new section of KRS Chapter 7 to require the Commission, with the assistance of the Personnel Cabinet, to establish a job classification and compensation system for non-partisan employees of the Commission by July 1, 2014, require non-partisan staff to be employed, promoted, disciplined, and dismissed in accordance with that system, allow non-partisan staff to appeal to the Kentucky Personnel Board, require that each non-partisan employee of the Commission have a personnel file that is accessible to the employee, and provide that nothing in this section shall grant rights under KRS Chapter 18A to employees of the Commission; create a new section of KRS Chapter 7 to define “sexual harassment” and “workplace harassment”, require the Commission to establish comprehensive policies and procedures to maintain a harassment-free workplace, require the Commission to employ a deputy director for human resources upon recommendation of the director who may only be dismissed by the Commission, provide for partisan staff to make complaints under this section, require complaints of workplace harassment to be investigated and the findings and recommendations made in a written report to the Commission, prohibit the Commission from providing staff support for a member of the Senate or House, or anyone directly employed by the Senate or the House, who has not consented in writing to be bound by the

policies and procedures regarding sexual and workplace harassment; amend KRS 7.090 to require employment of personnel by the Commission to be in accordance with the job classification and compensation system; amend KRS 18A.030 to require the secretary of the Personnel Cabinet to assist the Commission in establishing a job classification and compensation system; amend KRS 18A.075 to require the Kentucky Personnel Board to assist the Commission in establishing a job classification and compensation system; require the Commission to contract with an external entity within 10 days of enactment of this legislation to evaluate all facets of the policies, procedures, and culture of all Commission staff, require certain experience of the outside entity, and require the entity to recommend best practice in accordance with the requirements of this Act; EMERGENCY.
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 164 - Representative Rick G. Nelson (09/19/13)

AN ACT relating to probation and parole officers. Amend KRS 439.310 to require that probation and parole officer staffing levels allow for an active supervision ratio of no greater than 50 offenders per officer.
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 168 - Representative John Tilley (09/16/13)

AN ACT relating to eminent domain. Amend KRS 278.502 to condition the exercise of condemnation authority upon approval of the Public Service Commission, which may be given only after review of delineated statutory criteria.
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Energy Special Subcommittee

BR 173 - Representative Jesse Crenshaw (09/26/13)

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote. Propose to amend Section 145 of the Constitution of Kentucky to allow persons convicted of a non-violent, non-sexual felony the right to vote after expiration of probation, final discharge from parole, or maximum expiration of sentence; submit to the voters for ratification or rejection.
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 174 - Senator John Schickel (09/30/13)

AN ACT relating to school funding. Amend KRS 157.310 to clarify the intention of the General Assembly that no mandate be placed on the public schools without program

funding to carry out the mandate; require legislation relating to the public schools that includes a fiscal note pursuant to KRS 6.955 or a state mandate pursuant to KRS 6.965 to include provision for funding that is adequate for compliance with the mandate; clarify that no school district shall be compelled to comply with mandated enactments of the General Assembly that do not provide adequate funding; specify that this amendment does not relieve a school district from the obligation to comply with state or federal laws relating to health, safety, or civil rights.

(Prefiled by the sponsor(s).)
BR 176 - Senator John Schickel (09/30/13)

A RESOLUTION adjourning the Senate in honor of Dr. Julie Metzger Aubuchon upon being named Kentucky Optometrist of the Year. Adjourn in honor of Dr. Julie Metzger Aubuchon upon being named Kentucky Optometrist of the Year.
(Prefiled by the sponsor(s).)

BR 198 - Representative David Floyd (10/03/13)

AN ACT relating to eminent domain and declaring an emergency. Amend KRS 278.502 to apply its provisions only to utilities under the jurisdiction of the Public Service Commission; EMERGENCY.
(Prefiled by the sponsor(s).)

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* - denotes primary sponsorship of BRs

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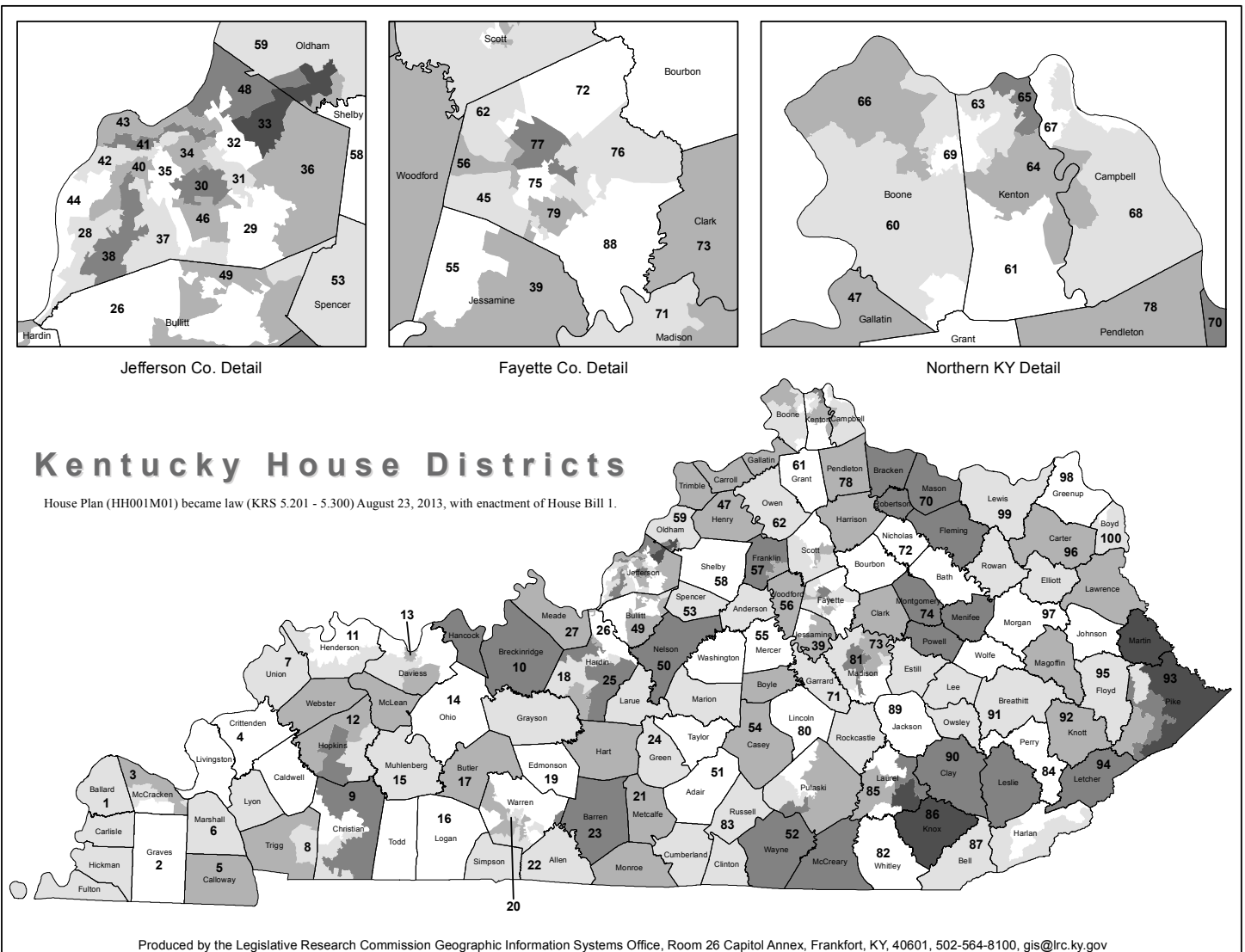
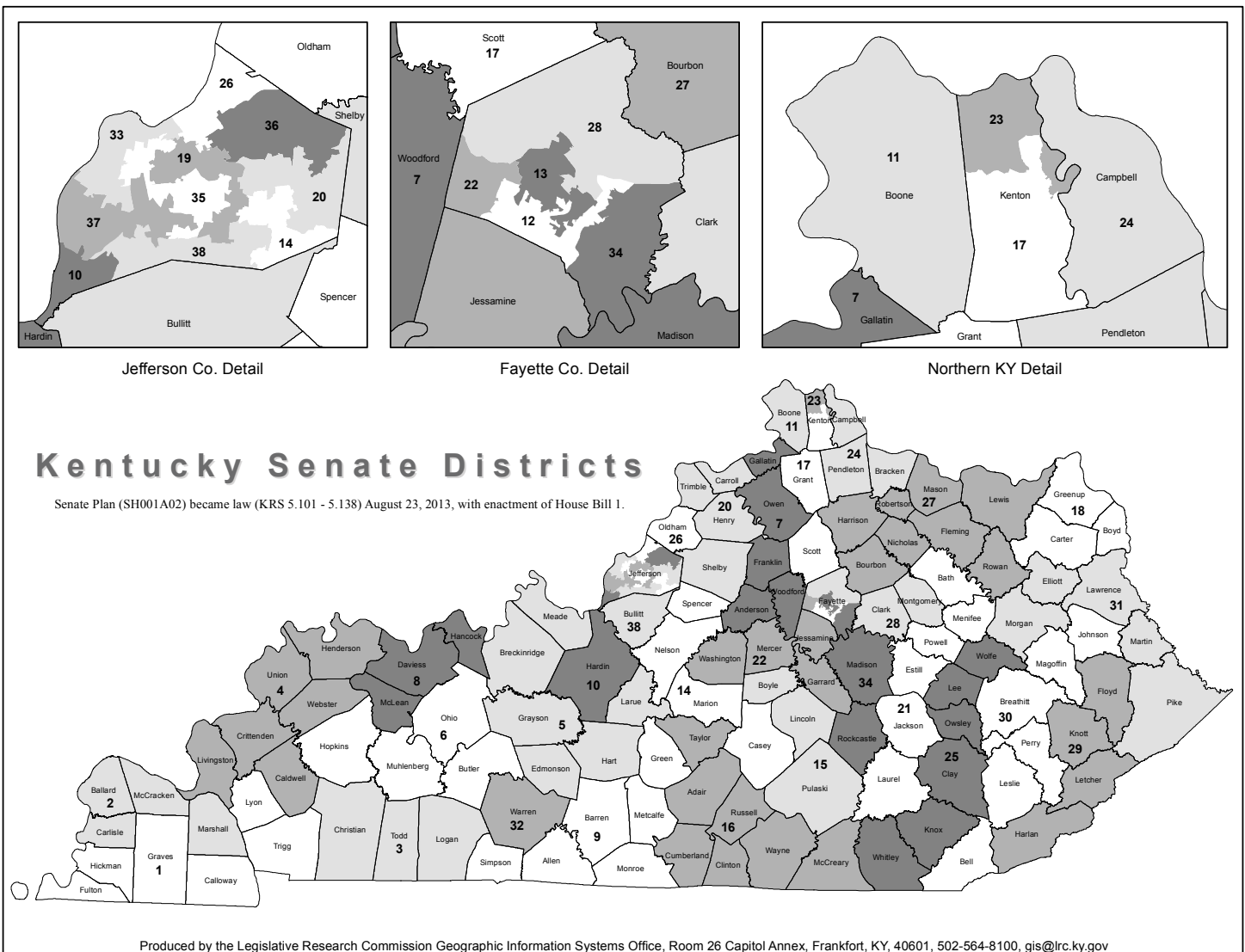
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