

2010 Interim LEGISLATIVE

Volume 23, No. 4
September 2010

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RECORD

Lawmakers discuss adult stem cell research

by Rebecca Mullins Hanchett
LRC Public Information

Breakthroughs in adult stem cell research are not decades away. They are already happening, right here in Kentucky.

Members of the General Assembly's Subcommittee on Health Issues and Aging learned on Sept. 15 how adult stem cell research at the University of Louisville is saving the lives of heart and other patients in a presentation by the university's Cardiovascular Innovation Institute Executive Director Dr. Stuart Williams. Adult stem cells, which Williams said are derived from fat tissue, blood and other sources, can be used to regenerate blood vessels, grow muscle and bone marrow, skin, repair neurons and more, he said.

Williams said many companies involved in adult stem cell research are based in Kentucky, and more are wanted.

"It is our hope that more companies will move to Kentucky because of the active interest we have in adult stem cell work," said Williams. Mega companies like Johnson & Johnson have a keen interest in the adult stem cell technologies at work here, he added, as do patients.

A cancer patient had her life extended after receiving a new blood vessel built from adult stem cells, Williams told lawmakers. Grown from fat-based stem cells that were transplanted onto a graft and placed in her chest, the blood vessel helped the patient live a year and a half by improving blood flow to her heart.

Other patients benefiting from adult stem cell research are the four-legged kind. Horses with arthritis and cats in renal failure have all been helped after receiving injec-



Rep. Tim Moore, R-Elizabethtown, at right, talks with House Minority Caucus Chair Bob DeWeese, R-Louisville, during a Health and Welfare subcommittee meeting in Frankfort.

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Oral health problems have long-term effect, panel told

by Rob Weber
LRC Public Information

Lawmakers received an overview of oral health problems in Kentucky, as well as the efforts underway to combat them, during the Sept. 15 meeting of the Health and Welfare Committee.

Kentucky needs more dentists in underserved areas, greater efforts to help people who can't afford dental care and more opportunities to educate people about the importance of oral health, lawmakers were told by a variety of the state's dental care professionals.

"The U.S. Surgeon General has called oral health care the number one unmet health care need for children in the U.S.," said Dr. Polly Buckey, regional director of Kool Smiles, a network of dental care providers in underserved areas. "The state of oral health of our children is alarming... Routine, affordable preventive care is the easy solution to all of these problems."

Statistics on the oral health of children in Kentucky provide "a devastating indictment of how well things are going so far," said Dr. Ann L. Greenwell, director of the University of Louisville's Pediatric Dental Residency Program.

Oral health problems can create a number of "hidden costs" throughout a person's life, lawmakers were told.

In Kentucky, 85 percent of sixth-graders and more than half of the state's four-year-olds have already had cavities, and 21 percent of children aren't covered by dental insurance, Greenwell said.

"There is a large number of what we call the working poor – families with minimum wage jobs. They make too much money to qualify for Medicaid, but they don't have a job that provides insurance," Greenwell said. "Their in-

come does not allow them to buy any insurance for themselves, so (they) have no insurance coverage to get care, routine or otherwise, for their children."

Oral health problems can create a number of "hidden costs" throughout a person's life, said Dr. Sharon P. Turner, dean of the University of Kentucky's College of Dentistry. "Children can't take in nutrition if they are hurting and can't eat. They can't sleep. They miss school. They miss the ability to learn. And they may develop self-image problems."

Likewise, adults with oral health problems face high out-of-pocket costs and lost workdays, Turner said. Pregnant women with oral infections may face adverse outcomes. Employers face significant costs for dental benefits. Workers' productivity decreases when they have tooth pain. And

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tions of adipose, or body fat, containing regenerative stem cells.

Sen. Julian Carroll, D-Frankfort, who said he suffers from neuropathy in his legs, told Williams he is “most impressed with your presentation” and voiced support for the Institute’s clinical trials while another lawmaker. Rep. Tim Moore, R-Elizabethtown, questioned why there would be any need for embryonic stem cell research given the potential of adult stem cell work. Moore cautioned against “knowledge for knowledge’s sake,” mentioning medical experiments carried out by the Nazis during World War II.

Williams said human embryo is “the only example that we have where you start from a single cell and it grows

and creates all those different organs.” Scientists must “trick” adult stem cells to become heart, neurons and liver, he said. “We’re pushing the adult stem cells as far as we can...but complex organs? They may not get us there.”

While he acknowledged some medical data throughout history has been gathered under “inexcusable conditions,” Williams said U.S. adult stem cell research is regulated by the federal government. And many scientists choose not to even look at medical data obtained by methods to which they morally object, he explained.

Overall, U.S. clinical trials using stem cells—which are regulated by the Food and Drug Administration—are growing in number. Williams said

there are currently 3,174 clinical trials involving stem cells in the nation, with adult stem cells comprising nearly all the trials.

“That’s a huge amount of activity,” he said, even though stem cell research is extremely expensive compared to amputation, making amputation a more attractive option financially.

With support from private industry and military contracts through the Department of Defense’s Department of Casualty Care, Williams explained adult stem cell research has indeed progressed since he began studying cell transplantation in the 1970s.

“I think the breakthroughs are actually here,” he said.

Oral health, from page 1

many seniors face high costs for dental care since Medicare doesn’t cover most dental procedures, she said.

Research also indicates an association between poor oral health and diabetes, cardiovascular disease, stroke and respiratory infections, Turner said.

Rep. Tim Moore, R-Elizabethtown, noted that poor oral health prevents some people from successfully joining the military. “The military is very serious about making sure that every service member and everyone that aspires to serve in the military have excellent oral hygiene. There are a number of people here in Kentucky, based on the statistics shared with us today, who would not qualify to enlist in the armed forces of the United States solely based on their dental health. And so to me that becomes a national security implications issue.”

In addition to hearing testimony on efforts to improve oral health by state agencies, universities, dental care providers, charitable groups and local health departments, lawmakers were told that the passage of House Bill 186 in 2008 will help promote good oral health. The legislation requires children, beginning this year, to receive oral health screenings when starting school.

Almost 40 percent of Kentucky pre-schoolers have never seen a dentist, “so that is why the new regulation that you all voted through to have dental screenings for 5- and 6-year-olds is a wonderful thing,” Greenwell said. “It’s a good start.”

Beverly Largent, a Paducah dentist and past president of the Kentucky Dental Association, said dentists appreciate the legislation, but expressed some concern about the lack of statutory language outlining what happens if children don’t receive the screenings.

Largent also noted that “the information we receive from the forms (turned into schools after screenings) will be delayed probably for a year, so if there are any problems with the screenings we are currently unaware of them.”

Still, the screenings are “a very important first step toward finding a dental home for all children,” she said.

Military, overseas voting improvements aired

by Chuck Truesdell
LRC Public Information

State election officials are working to make sure that military and other overseas voters can make their voices heard in November, a panel of lawmakers heard at the September meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection.

Congress passed the Military and Overseas Voter Empowerment Act last year, Secretary of State Trey Grayson said, with a plan to implement the program in time for the 2010 general election.

“The idea is that for folks who are living overseas, either because they’re serving in the military or because they’re working overseas... getting a ballot via absentee, via the mail, and getting it back in time to be counted, which in Kentucky is 6 p.m. on Election Day, is a bit of a challenge,” Grayson told the legislative panel. “We can all agree that especially for folks serving in the military overseas or working for the government overseas, it’s a terrible irony that these folks often have their votes go uncounted when they’re fighting to give us the very right to vote.”

Under the MOVE Act, county clerks must fax or e-mail a ballot to absentee voters who request that method. “If you’re at a forward operating base in Afghanistan, it may be difficult to



Sen. Joey Pendleton, D-Hopkinsville, at left, and House Speaker Pro Tempore Larry Clark, D-Okolona, confer during the September meeting of the Interim Joint Committee on Veterans, Military Affairs and Public Protection in Frankfort.

get a piece of mail to you,” Grayson noted. The completed ballot must still be returned through traditional mail, but electronic transmission can eliminate half the lag time for the entire process.

Responding to a question from Rep. Tom Burch, D-Louisville, Grayson said the mailing time from Afghan battlefields can range into the 35-40 day area. Without the fax and e-mail

options, he said, it would very difficult for those soldiers to cast their ballots.

West Virginia is experimenting with electronic ballot-casting, Grayson said, with an eye on ballot privacy and security. “I’m glad they’re doing it, and we’ll learn from their experience,” he said.

The process means overseas voters must print out the ballot them-

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Waste coal findings shared with lawmakers

by Rebecca Mullins Hanchett
LRC Public Information

The reuse of waste coal particles called “fines” to produce electricity got a full hearing on Sept. 2 as scientists and coal industry representatives filled in state lawmakers on the latest waste coal technology.

Dr. Darrell Taulbee of the University of Kentucky’s Center for Applied Energy Research (CAER) told the Interim Joint Committee on Natural Resources and Environment how waste coal fines are processed for reuse. Briquetting, which creates a larger mass of fines from smaller ones, is one such technology as is pan or disk pelletization—a process that Taulbee praised for its ability to rid waste coal of problem-causing moisture.

“That’s really the key to these coal fines—getting things dried,” said Taulbee. But coal fines typically have a high moisture content, are expensive to dry, and freeze in the winter, he added, which makes coal fines’ abundance—about 2 to 3 billion tons of the waste coal is believed to be in the U.S.—a challenge when it comes to recovery.

A solution is co-briquetting fines with biomass that helps lower carbon dioxide and other power plant emissions, said Taulbee, although the process requires a “binder” that holds the waste coal to biomass. Fibrous material, like certain grasses, is favored since they bind better than sawdust and other types of biomass, he said.

When asked by Rep. Don Pasley, D-Winchester, if more work needs to be done to make biomass a better binder, Taulbee said switchgrass and straw grasses work quite well.

“I prefer to go with what we know at this time,” Taulbee said.

Also testifying was KeLa Energy representative Larry Umstadter, whose Orlando-based company has worked with utilities on the issue of waste to fuel several years ago. He said the companies tiptoed around the issue of binding biomass with coal fines in the early years, and are hesitant now because of a lack of direction on the regulation front.

Another concern Umstadter said is biomass supply. After a plant in Ohio converted to biomass for electric generation, Umstadter said environmental groups organized against how the biomass, particularly timber, is harvested.

“My big concern about biomass is supply,” he said.

Committee Co-Chair Sen. Brandon Smith, R-Hazard, was reminded of the situation surrounding the Gulf oil spill after hearing Umstadter’s account of the situation in Ohio.

“Case in point, people have vilified BP for deep offshore drilling, but they (BP) were only out there because that is where (people) wanted them to go,” Smith said.

The final presentation of the day was from Georgia-based CoalTek which spoke to the committee about the benefits of clean coal and the workings of its Calvert City plant that produces clean coal from low-grade raw coal by reducing moisture content, thereby increasing the coal’s heat value.

Coal fines typically have a high moisture content, are expensive to dry, and freeze in the winter.

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Voting, from page 2

selves if e-mailed, and return it in two envelopes – an outer envelope for the U.S. Postal Service, and an inner envelope to maintain voter privacy once the package is opened at the county clerk’s office.

The MOVE act also requires election officials to send out ballots 45 days before Election Day, although anyone requesting an absentee ballot after that will be sent one. State law, however, requires a 50-day window. “We actually have a tougher, in this case a better state law, so this doesn’t really affect us,” Grayson said. Other states with late primaries will need to move those dates to accommodate the general election ballot needs, while Kentucky’s May primary date allows for that already.

While Kentucky has a good track

record of receiving absentee ballots by the Election Day deadline, the new provisions should increase that rate to nearly 100 percent, Grayson said.

As mandated by the MOVE Act, election officials have created a tracking system so that voters who cast absentee ballots will know whether their returned ballots have been received. Jefferson and Fayette counties will have their own system, while the other 118 counties will utilize the state’s tracking system.

The federal requirement “was essentially an unfunded mandate, although it was for a good cause” Grayson said, but Kentucky was able to use money set aside for the Help America Vote Act to implement the program. Many other states, he said, had no more HAVA funds available.

Concerns with state tax law heard by panel

by Rebecca Mullins Hanchett
LRC Public Information

Concerns about a 1979 tax law that some say allows taxing districts to raise taxes beyond the limit prescribed by law without voter approval were heard by a state legislative committee in August.

Concerns with 1979 House Bill 44, which generally limits taxing districts to a year-over-year increase in property tax revenue of 4 percent or less without being subject to recall by voters, were raised before the Interim Joint Committee on Local Government by Boone County Property Valuation Administrator Cindy Rich and her attorney, Rick Brueggemann. Rich and Brueggemann presented examples showing that taxing districts can levy a tax rate that generates more than a 4 percent increase in revenues, without being subject to recall, because of a secondary calculation that allows personal property to be included in the rate calculation.

Rich said the situation occurs in districts that have a higher rate on personal property than on real estate. The initial calculation in establishing the property tax rate is the “compensating rate”, which is the rate that will generate the same amount of money from real property as was generated in the prior year. The purpose of the rate is to allow for adjustment as the assessment base changes. If the personal property rate is higher than the real property rate, a district will almost always be able to levy a higher rate against real property than taxpayers would expect without being subject to recall because the higher personal property rate isn’t taken into account when the initial real property rate was established.

“Taxpayers are being led to believe revenue is only going up 4 percent...or they’re being led to believe that it’s not going up at all—it’s a compensating rate, so it’s about the same as last year,” said Rich. The discrepancy shows up when citizens get their tax bill, she explained.

“The way it is being calculated, it results in a higher tax,” Brueggemann said.

A Kentucky Attorney General’s opinion requested by Rich indicates that the calculation is legal, according to committee testimony.

Sen. Julian Carroll, D-Frankfort, said time is needed for the Attorney General’s Office and others to look into the claim. But he also said it is his understanding that HB 44’s purpose is to limit collective increases in revenue—not just revenue from real property—to 4 percent without the possibility of a voter recall. Without a compensating rate, he said, the law would just deal with real property.

Department of Local Government staff attorney Andrew Hartley said his agency believes it is following the “literal wording” of the law when calculating the compensating tax rate for local tax districts.

Sen. John Schickel, R-Union, asked if citizens are expected to pay the same amount of tax as the prior year even if their property value has decreased significantly. Rich said the expectation under the compensating rate is for the same amount of revenue to be collected by the taxing district overall.

“It occurs to me...that HB 44, in a deflationary time, has a very different affect on citizens,” Schickel said.

Presiding co-chair of the committee, Sen. Damon Thayer, R-Georgetown, said the committee has a few months to determine if a legislative fix is needed for HB 44.

2011 Session Calendar

2011 REGULAR SESSION CALENDAR
(Approved by LRC Co-Chairs 9/1/10)

JANUARY – PART I

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

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

FEBRUARY – PART II

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

() Denotes Legislative Day

MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 (24)	2 (25)	3 (26)	4 Concurrence (27)	5
6	7 Concurrence (28)	VETO	VETO	VETO	VETO	VETO
13	14 VETO	VETO	VETO	VETO	VETO	19
20	21 (29)	SINE DIE (30)				26
27	28	29	30	31		



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INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 2nd Meeting of the 2010 Interim

August 26, 2010

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Agriculture was held on Thursday, August 26, 2010, at 10:00 AM, at the Kentucky State Fair VIP Room, Louisville, Kentucky. Senator David Givens, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator David Givens, Co-Chair; Representative Tom McKee, Co-Chair; Senators David E. Boswell, Bob Leeper, Vernie McGaha, Joey Pendleton, Dorsey Ridley, Kathy W. Stein, and Damon Thayer; Representatives Royce W. Adams, John "Bam" Carney, Mike Cherry, James R. Comer Jr., Mike Denham, C. B. Embury Jr., Jeff Greer, Richard Henderson, Charlie Hoffman, Martha Jane King, Terry Mills, Brad Montell, Fred Nesler, David Osborne, Sannie Overly, Don Pasley, Tom Riner, Steven Rudy, Dottie Sims, Wilson Stone, and Tommy Turner.

Guests: Senate President, David Williams; House Speaker Greg Stumbo; Speaker Pro Tem Larry Clark; Senator Robin Webb; Representative Dennis Horlander; Representative Dwight Butler; 2010 Miss Kentucky Djuan Trent; Mike Burchett, Kentucky Soybean Association; Mac Stone, Executive Director, Kentucky Department of Agriculture Marketing and Product Promotion; Angela Blank, Agricultural Liaison, World Equestrian Games; Harold Workman, President and CEO, and members of the Kentucky State Fair Board.

LRC Staff: Biff Baker; Lowell Atchley; Stefan Kascavage; Tom Middleton, Graduate Fellow; Stewart Willis, Budget Review; and Susan Spoonamore, Committee Assistant.

The July 14, 2010 minutes were approved, without objection, upon motion made by Senator Boswell and seconded by Senator Damon Thayer.

Report of the Kentucky State Fair Board

Mr. Harold Workman, President and CEO of the Kentucky Fair Board, informed the members that the State Fair, the National Farm Machinery

Show, and the North American Livestock Show have a combined annual financial economic impact of approximately \$450 million. The total attendance for this year's fair will be over 600,000. Of that total, he said over 150,000 people attend the concerts, particularly the free concerts held in the old Cardinal Stadium. Since schools have started their school year earlier, there has been a decline in attendance. To continue growing, it was important to maintain the condition of all facilities, including Cardinal Stadium, which is in poor condition. He asked the General Assembly to consider replacing the stadium with an outdoor amphitheatre that would seat 12,000 people. The fair board feels that the public would support an amphitheatre that would bring concerts to Louisville throughout the summer, creating revenue for the board and for the Commonwealth.

Mr. Workman also pointed out that the Board was responsible for the downtown Convention Center and the new Arena that is supposed to open in October.

In response to questions, Mr. Workman stated that the board has been active in acquiring the ownership of Six Flags, pending approval by the Bankruptcy Judge. He said that the board has selected a company to redevelop the Six Flags park. The company will address the board in October to present its report on the economic impact, business plan, and financial picture of the park. It is estimated that the park will provide 100 permanent and 1,000 part-time jobs, and should be re-opened in the spring of 2011.

Commissioner Richie Farmer noted that the State Fair provides opportunities for children to visit the various agricultural exhibits and participate in agricultural related events. The Division of Shows and Fairs is an important part of the department, and approximately 110 of the 120 counties have a county fair.

Presentation and Update of the World Equestrian Games

Angela Blank, Agricultural Liaison for the World Equestrian Games, and Mac Stone, Kentucky Department of Agriculture, showed a video promoting the World Equestrian

Games. The video highlighted the role that Kentucky Proud will play at the games. Kentucky Proud products will be housed in The Kentucky Proud Product Pavilion. Ms. Blank stated that many entities have come together to make the Pavilion a reality, including the Tourism, Arts and Heritage Cabinet, the Governor's Office of Agricultural Policy, the Kentucky Department of Agriculture, and the Artisan Center of Berea. Ms. Blank stated that products will be for sale along with demonstrations.

Mr. Stone explained that the James Beard Foundation is helping promote the games and Kentucky Proud. To be named a James Beard Chef is the highest honor in the culinary world. There will be 16 nights with 48 chefs preparing meals with Kentucky Proud Products.

Mr. Stone also stated that the State Veterinarian and his staff have worked hard to insure the safety of the horses that will be participating in the games. This will be the largest air-lift of horses across the Atlantic since World War II, with approximately 775 expected.

In response to a question, Ms. Blank stated that tickets are still available on the web-site or at the door. Approximately 300,000 tickets have been sold.

Senator Givens and Representative McKee expressed concerns over proposed regulations by the World Health Organization (WHO) that would ban most ingredients from blended cigarettes. If passed, the ban would adversely affect the sale of burley tobacco. The Co-Chairs asked committee members to consider sending a letter to the nations participating in the discussions, asking the nations to vote against the proposed regulations.

Commissioner Farmer stated that he and the Commissioner from North Carolina have had letters drafted on behalf of the Southern Association of State Departments of Agriculture and National Association of State Departments of Agriculture opposing the regulations.

There was a motion made by Representative Richard Henderson and seconded by Representative Don Pasley to approve the letter being prepared to send to the nations par-

ticipating in the discussion regarding the WHO regulations. Without objection, the motion passed.

Mike Burchett, Kentucky Soybean Association, presented Senator Givens with a Friend of Agriculture award honoring him for his work on creating the Kentucky Livestock Care Standards Commission legislation (2010 HB 398).

Representative Martha Jane King invited members to the IJC on Agriculture meeting in Logan County on September 8.

There being no further business, the meeting was adjourned.

JOINT MEETING INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes of the 3rd Meeting of the 2010 Interim

August 17, 2010

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Economic Development and Tourism was held on Tuesday, August 17, 2010, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Eddie Ballard, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Eddie Ballard, Co-Chair; Senators Julian M. Carroll, Julie Denton, Denise Harper Angel, Ray S. Jones II, Jerry P. Rhoads, Katie Kratz Stine, Robin L. Webb, Jack Westwood, and Ken Winters; Representatives Royce W. Adams, Linda Belcher, Kevin D. Bratcher, John "Bam" Carney, Larry Clark, Leslie Combs, Will Coursey, Mike Denham, Bob M. DeWeese, Myron Dossett, Ted Edmonds, Jim Gooch Jr., Keith Hall, Mike Harmon, Melvin B. Henley, Dennis Horlander, Joni L. Jenkins, Dennis Keene, Thomas Kerr, Martha Jane King, Adam Koenig, Tom McKee, Terry Mills, Tim Moore, Fred Nesler, David Osborne, Ruth Ann Palumbo, Don Pasley, Fitz Steele, Tommy Thompson, Ron Weston, Addia Wuchner, and Jill York.

Guests: John Mok, Chief Executive Officer, Kenton County Airport Board and Tim Zeis, Chief Operating Officer, Cincinnati/Northern Kentucky International Airport; Eric Frankl, Executive Director, Blue Grass Airport; Charles Miller, Executive Director, Louisville International Air-

port; Steve Stevens, President, Northern Kentucky Chamber of Commerce; and Mary Bryan hood, Director, and Mr. Dean Stanley, Chairman, Owensboro Museum of Fine Art.

LRC Staff: John Buckner, Louis DiBiase, Karen Armstrong-Cummings, and Dawn Johnson.

A motion and second by Representative Nesler and Representative Steele to approve the July 15, 2010, minutes carried by voice vote.

Kentucky's Airport Industry—Issues and Challenges

Co-Chair Kerr said the issues and challenges facing Kentucky's airports are of great concern to the committee and the legislature. At the request of Senator Stine and Representative Palumbo, the committee, along with the Program Review and Investigations Committee, has asked representatives from Kentucky's major airports to testify at today's meeting.

Senator Stine said the airports are a vital economic engine to the Commonwealth and thanked the co-chairs for opening dialogue on this issue.

Steve Stevens, President of the Northern Kentucky Chamber of Commerce, introduced the other members of the panel. Mr. Stevens said even with the downsizing of Delta Airlines, the Northern Kentucky airport is still an important generator of economic activity. The national economy is highly dependent on commercial aviation,

which is directly or indirectly responsible for 5.2 percent of the gross domestic product (GDP) and represents 10.9 million jobs nationally. Aviation is critical in Kentucky. According to the Federal Aviation Administration (FAA), in December 2009, five percent of Kentucky's jobs were civil aviation related with salaries averaging approximately \$31,000 and representing 5.3 percent of the state's GDP. According to a 2004 University of Cincinnati study, the Cincinnati/Northern Kentucky Airport (CVG) provided an annual net economic benefit of \$4.5 billion and supported over 50,000 local jobs. The presence of top notch air service with options is critical to economic development, and businesses consider air service a top factor in determining where they will locate. Robust air service is also critical on the international level. According to the Economic Development Cabinet, Kentucky is home to 394 international companies employing 72,581

people full-time. Northern Kentucky has many international businesses, many from Germany, England, and Japan. The CVG used to offer direct flights to Amsterdam and London—a major attractor of many of those firms. Since these flights are no longer offered, the ability to attract international companies is uncertain. Mr. Stevens said today's testimony will provide recommendations on making Kentucky more competitive and more attractive to air carriers to increase jobs.

Next, Mr. John Mok, Chief Executive Officer, Kenton County Airport Board at the Cincinnati/Northern Kentucky International Airport, presented an air service investment program to help Kentucky's commercial service airports compete with surrounding states. Mr. Mok said CVG's influence on corporate site selection is evident with companies like Toyota, Ashland Oil, Dunhumby, GE Capital, and Fidelity. However, domestic seat capacity with network carriers is at its lowest level since 1991. Reducing air capacity increases air service competition resulting in communities competing against each other. New economic development tools are necessary to improve Kentucky's competitive advantage to attract and retain businesses.

Referring to a PowerPoint presentation, Mr. Mok noted that 33 of 51 airports surveyed by the Airports Council International-North America offer an incentive program for domestic air service, and 23 of 48 airports providing international air service offer incentive programs. During negotiations, once it is decided there is a market carriers want to know the cost of doing business and what financial incentives are available.

Air service at CVG has decreased significantly -- from 2005 to 2010, average weekday departures have gone from 670 to 225. The number of passengers has dropped from 22 million to 10 million; the number of nonstop domestic flights has decreased from 130 to 70, and the number of nonstop European destinations from five to one. Once a major connecting passenger hub, the CVG now services an equal number of local and connecting traffic. Two terminal concourses have been closed and thousands of airline employees have been laid off as a result. To increase air service, the CVG is pursuing all avenues including identifying new air service opportunities with existing carriers, meeting with business and political

leaders, seeking a diversified mix of domestic and international carriers, and improving customer service. Restoring lost international service is a priority as the ability to shorten travel time between international destinations is a distinct advantage in the global marketplace. With the loss of four European nonstop destinations in 2009, the ability to retain and attract international businesses is jeopardized. He noted that cities such as Pittsburgh, Portland and San Diego have invested millions in incentives to secure or retain international service citing hundreds of new jobs and an approximate \$100 million annual economic benefit from one direct transatlantic flight.

The targeted travel market segment must be considered in developing an air service investment program as well as the program's value to the community. International air service offers the most economic benefit and requires the most resources. Historically the CVG has proven there is local demand for transatlantic nonstop service; however, competition from cities that offer air service incentives makes it hard to complete. The implementation of an air service investment program for Kentucky's airports will create a level playing field.

Next, C.T. "Skip" Miller, Executive Director of the Louisville Regional Airport Authority, gave an overview of the airport's air service. Mr. Miller said the airport offers 92 commercial service flights daily by seven major airlines. There are 25 nonstop destinations, 17 of which service the top 20 destinations. The airport served 3.2 million passengers in 2009. The airport's main goal is enhancing access to destinations important to the business community. Business travel is the core component of the commercial airline industry. Mr. Miller said an example of good investment in aviation is United Parcel Service (UPS) who provides a significant economic benefit to the state through jobs, taxes, and the ability to attract other companies.

The airport's passenger air service development strategy is to create sustainable air service while focusing on new domestic nonstop service; particularly through expanded hub access as well as regional connections, and enhanced leisure options without sacrificing network carriers that support the business marketplace. Partnerships including one with the Louisville Chamber of Commerce have been formed to help build

a sustainable service. A successful air service development program has three essential ingredients: a well thought-out plan, sustainable service that is efficient and reliable, and buy-in through the community to help attract and promote service and reduce start up costs. He concluded saying today's economic climate has changed the face of air service.

Mr. Eric Frankl, Executive Director of Lexington Blue Grass Airport, said the airport serves approximately 1 million passengers a year, averaging 40 flights a day to 14 cities. He noted the impact an airport has on local business and stated air service is almost always a consideration by companies and site selectors when evaluating options. The airline industry has suffered from enormous economic pressure since deregulation in 1978, resulting in many communities having decreased passenger service as a result. Mr. Frankl said the airport representatives before the committee today were there to seek help. He explained the impact of low fare airline service to a community. Lexington recently received a United States Department of Transportation Small Community Air Service Development Grant for \$600,000 with a local match of \$150,000 to attract a low fare service to Lexington to counter the steady drop in passenger activity over the previous four years. Through a revenue guarantee AirTran Airways began direct service to Orlando and Fort Lauderdale. In the first six months, passenger activity increased 16 percent over one year ago. This demonstrates the challenge airports have of legally providing a revenue guarantee regardless of whether the money is available. Because of this challenge it is not uncommon for state governments to implement air service grants. Kansas offers incentives based on the belief that an annual investment of \$5 million will save citizens over \$40 million through lower airfares. This benefits the average consumer and companies in the community.

Representative Palumbo said without airport service Kentucky can neither serve consumers nor the domestic business and international community. Responding to a question on how to maintain and create jobs, Mr. Mok gave examples of how other cities offer programs such as revenue guarantees. Airlines are most concerned with minimizing risk when entering a new market, and one way to avoid this is to minimize

the cost of entry into the market. European and Asian airports typically provide all required operations handling services—a significant cost of entry. One consideration would be to offer similar airline handling services. Seed capital and training and development funds would be helpful as well. Tim Zeis, Chief Operating Officer at CVG gave an example of the state providing a \$400,000 jobs incentive for the 1994 Delta and ComAir expansion that resulted in the purchase of property that is still in use by the airport.

Representative Palumbo said smaller regional airports should also be included in discussions.

Mr. Frankl added that each airport has different operations and requires different strategies for reaching the same end goal. Any assistance by the state would need to be flexible.

Mr. Miller said the Louisville Airport is not looking for a handout but a hand up to be prepared to compete with other states' incentives. The airport representatives agreed that while they are competitors, the success of the Commonwealth is their main focus.

Responding to Senator Stine's questions, Mr. Mok said that while virtually every airport in Europe and Asia provides ground support, no major commercial airport in the United States does due to the origins of the airline industry in the U.S. As the industry evolves, airlines are now outsourcing these services. Area Chambers of Commerce have been collaborative and supportive of CVG. He said a skilled labor pool is important for carriers considering the market and one exists due to recent layoffs. The airport is working with local college to ensure training remains available.

Senator Brandon Smith suggested investigating the use of coal fuel as a more economical and local source of airline fuel.

Representative Clark asked for a business plan before tax incentives are decided upon. Mr. Mok said the board is committed to diversifying air service providers at CVG. Due to multiple factors, it is not expected that Delta will ever rebuild to their previous numbers.

Senator Webb said the state should hear from a broad range of carriers to understand what is needed to expand into Kentucky before the state invests, and asked for information on any federal commitment to expand before the state attempts

to craft a plan. She asked for information programs offered by other states, and that detailed information is needed before the legislature can move forward.

Responding to Representative Koenig's question about assistance to airlines, Mr. Miller said a number of offerings are available including cooperative advertising, fee abatement programs, and a pool of resources and assets offered to carriers to defray startup costs. Any assistance available is tied to continuation and maintenance of a certain level of services.

Responding to Representative Wuchner's questions, Mr. Mok said the largest European markets from CVG are London, Frankfurt, and Paris. He explained that the use and lease agreement with Delta expires in 2015, and that separate terminal leases with Delta expire from 2015 to 2025. He said the original exclusive lease with Delta was modified when they filed bankruptcy.

In response to Co-Chair Kerr's question Mr. Frankl said that while the Blue Grass Airport has suffered some missteps, the airport has come a long way with new board members and an internal reorganization in progress. Redevelopment should conclude within six months to a year.

Representative Moore expressed concern that the industry may be addressing symptoms rather than some of the market's underlying problems. He encouraged the airport representatives to give members of the legislature and the committee specific recommendations on how to help the state's airport industry. Given the state of the economy he asked for suggestions for nonmonetary adjustments the legislature could make as well to encourage carriers to expand.

Senator Schickel thanked the presenters and noted that the Program Review and Investigations Committee would be aggressively working towards a report to be reviewed at the October meeting. He said the September 9th meeting would cover workforce development for older workers. The minutes of the last meeting will be approved then as well.

Owensboro Museum of Fine Art Representative Thompson introduced representatives from the Owensboro Museum of Fine Art and stressed the importance of a cultural environment and the role it plays in

Kentucky's communities, particularly the connection between a cultural environment and the ability to attract and retain jobs in a community.

Ms. Hood, Executive Director of the Owensboro Museum of Fine Art, said since its inception in 1977, the Owensboro Museum has become the state's second largest art museum with over 70,000 visitors annually. It has evolved into a regional center for the visual arts. The museum, now housed in three wings, also offers two outdoor sculpture parks. She said while this dynamic growth is the result of generous financial support and extensive gifts to the art collection, it is more the result of the enthusiastic response from regional residents to its broad programming and arts education. Two of western Kentucky's most important historical structures enhance its physical plan. Both are national historic sites—the Carnegie Building built in 1910 and a civil war era mansion, the John Hammond Smith House. They were structurally joined by a \$2.5 million expansion creating an architectural concept called the village environment containing 14 galleries. The site also features two outdoor sculpture parks that include green space and a walking trail. The museum features local artists, folk art, and national touring exhibitions. More than 30,000 school children visit the museum annually to view the exhibits, watch performing arts events, and participate in the museum's educational opportunities. There is a month-long summer camp as well.

Ms. Hood introduced a video featuring the museum.

Mr. Dean Stanley, chairman of the museum's board of directors, explained that the museum needs financial help. The community saw a need for greater cultural awareness and decided to commit their time and resources to making it happen by supporting the museum. It is an educational resource and an asset to economic development and tourism. Most importantly it directly contributes to the quality of life in the region. The museum has the potential to offer even greater educational opportunities to the people of western Kentucky. These enhanced opportunities are even more important in light of the recent financial challenges faced by regional school systems, and the museum's experience in planning and implementing creative educational programs could benefit

the regional in much the same way as the Kentucky Historical Society does with its state-assisted programs. Mr. Stanley noted that eastern Kentucky is represented through the Prestonsburg Mountain Arts Center and the Kentucky Artisan's Center in Berea. A western Kentucky Center for the Visual Arts could serve the same purpose for western Kentucky. This vision was recently shared with the Governor's Office as well. Mr. Stanley asked that the legislature include funding for the museum as a line item in the state's next biennium budget. The museum is requesting approximately \$400,000 a year to develop the regional center. Based on an economic study by American's for the Arts, art centers create jobs and contribute to the economy. He said many cities are working to attract a young, educated and professional workforce through arts and cultural offerings.

Co-Chair Ballard said the Owensboro Museum is a valuable asset to western Kentucky.

Representative Palumbo said the museum has a wonderful collection of fine art. She supported helping the museum any way possible.

Senator Rhoads said the museum's reputation as a cultural center is rightly deserved.

Responding to Senator Westwood's question, Mr. Stanley said to create the outreach program through the Western Kentucky Center for the Visual Arts they would need funding for additional staff and expansion of the museum as the museum's size limits its offerings. Ms. Hood added that the museum is a source of direction to other museums wanting to offer similar services and additional funding would also allow them to provide greater assistance to other arts facilities.

There being no further business, the meeting adjourned at 3:00 PM.

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 3rd Meeting of the 2010 Interim

August 9, 2010

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on Education was held on Monday, August 9, 2010, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ken Winters, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

II, Co-Chair; Senators Walter Blevins Jr., David Givens, Jimmy Higdon, Alice Forgy Kerr, Vernie McGaha, R.J. Palmer II, Tim Shaughnessy, Elizabeth Tori, and Jack Westwood; Representatives Linda Belcher, John "Bam" Carney, Hubert Collins, Leslie Combs, Jim DeCesare, Ted Edmonds, C. B. Embry Jr., Tim Firkins, Kelly Flood, Derrick Graham, Jeff Greer, Reginald Meeks, Charles Miller, Harry Moberly Jr., Rick G. Nelson, Marie Rader, Jody Richards, Tom Riner, Charles Siler, Dottie Sims, Kent Stevens, Wilson Stone, Alecia Webb-Edgington, and Addia Wuchner.

Legislative Guest: Representative Brad Montell.

Guests: Jim Thompson, Education and Workforce Development Cabinet; Richard Day, Eastern Kentucky University; Sara Hallermann, constituent; Mary Ann Blankenship, Kentucky Education Association; Bobby Lewis and Wayne Young, Kentucky Association of School Administrators; Cindy Heine, Prichard Committee for Academic Excellence; and Clyde Caudill, Jefferson County Public Schools.

LRC Staff: Audrey Carr, Janet Stevens, Sandy Deaton, Kenneth Warlick, Henry Smith, and Lisa W. Moore.

Approval of Minutes

Upon a motion by Representative Collins, seconded by Representative Richards, the minutes of the July 12, 2010, meeting were approved by voice vote.

Reports from the Subcommittee Meetings

Representative Leslie Combs, Co-Chair, Subcommittee on Postsecondary Education, said Robert King, President of the Council on Postsecondary Education, provided an overview of issues impacting college completion and trend data showing the progress Kentucky has made in the last decade and national comparisons. This was followed by presentations on campus initiatives to address college completion at the states two research universities, the six comprehensive universities, and the Kentucky Community and Technical College System (KCTCS). She said committee members received packets of materials from each school and heard summary reports which showed varied, aggressive approaches to improving college completion going on across the Commonwealth. All of these initiatives appear to have individualized outreach to students as a key component. This was fol-

lowed by a presentation by Edward Cunningham, Executive Director, and Susan Hopkins, Outreach Services Manager, about college access initiatives and outreach provided by the Kentucky Higher Education Assistance Authority. The presentation covered an impressive array of services designed to get information to students and their families about the benefits of higher education and the opportunities and assistance available.

Representative Ted Edmonds, Co-Chair, Subcommittee on Elementary and Secondary Education, said Kentucky Department of Education (KDE) Associate Commissioner Felicia Smith, consultant Sherri Clusky, and Dr. Ronnie Nolan, Director of the Kentucky Educational Collaboration for State Agency Children, gave an overview of A-5 and A-6 alternative education programs. Eleven alternative programs have recently been identified by KDE as "exemplary." Testimony was provided by staff of two of the exemplary schools: Ms. Ann Brewster, principal of Ramey-Estep High School in Boyd County and Lisa Weest, principal, Robin Gabbard, public relations director, and Stephanie Miller, teacher at Buckhorn Children's Center School, Perry County. Each presentation focused on the day-to-day operation of the school, including student and staff assignment, program offerings, and funding streams.

A Practitioner's View of Effective Public Charter Schools

Mr. Tracy McDaniel, School Leader, Knowledge Is Power Program (KIPP) Reach College Preparatory Middle School, Oklahoma City, Oklahoma, reported that when he took leadership of the middle school in his hometown it was the lowest performing school in the state. His mandate was to get the school off of the lowest performance list and he was the tenth principal the school had employed in the last fifteen years. At the end of his first year, the school was removed from the list, but was still the lowest performing school to pass the test. He was recruited and began training for the KIPP program.

Mr. McDaniel is the Founder and Director of KIPP: Reach College Preparatory. Since its inception, KIPP Reach is one of the highest performing middle schools in the state. After the second year of working with fifth and sixth grade students, his school was the fourth highest performing school in the state of Oklahoma,

and funding was cut for the program. After funding was cut, KIPP applied and became a charter school in 2005 and was no longer a district contract school.

Mr. McDaniel reported that many of his students were several grades below reading level comprehension. Many parents are shocked to learn their children are behind in reading. In 2010, 100 percent of his students passed seventh and eighth grade math, 100 percent of his student passed eighth grade reading, and 97 percent passed seventh grade reading. He also reported that 93 percent of his seventh grade students scored in the advanced level on the state math assessment, and 89 percent in eighth grade score at an advanced level.

Mr. McDaniel noted that he knows every child in his school and is on a first-name basis with the parents. Teachers report to work at 7:15 a.m. and usually leave around 5:15 p.m. The students work very hard and usually have two hours of homework each night. They are encouraged to call their teachers at any time if they have questions with their homework.

Mr. McDaniel does not feel like KIPP has been successful unless his students go to college. The program follows them past high school graduation and ensures the students are enrolled in postsecondary education. There is currently an 83 percent rate of students enrolling into college after graduation.

In response to questions from Representative Collins, Mr. McDaniel said there are 280 students enrolled in his school which encompasses fifth through eighth grade. There are 14 teachers employed at the school, in addition to support staff. The starting salary for regular teachers in Oklahoma is \$34,000 and most teachers in the KIPP program start out at \$44,000 because they work overtime, Saturdays, and many days in the summer. Mr. McDaniel said teachers in the public school system could be just as effective if their rules and regulations allowed them to implement some of the same best practices as the KIPP program. Charter schools that perform poorly should face the same sanctions as regular public schools that perform poorly.

In response to questions from Representative Rollins, Mr. McDaniel said the KIPP program is open, and is free public education. He said they

send a letter out to each fourth grade student in Oklahoma and run advertisements in the local newspapers. Children apply and then the children and parents must sign a commitment to being in the school and completing all homework assignments. He removes far fewer students from the program than the public schools remove and send to alternative school. One reason for this is having multiple parent conferences and keeping parents engaged in their children's educational progress.

Mr. McDaniel said fundraising efforts are used to be able to pay the teachers the additional \$10,000 in salary for overtime. Community leaders also help to obtain national grants to help pay the KIPP teachers for the couple of extra hours worked each school day. Ten percent of KIPP's students this year are identified as special needs, compared to 13 percent as the average for the school district.

In response to a question from Senator Winters, Mr. McDaniel said the other schools do not react when their students receive a letter inviting them to join the KIPP program. He said he even shares a building with a public school whose students receive letters and he never receives a negative reaction.

In response to questions from Representative Flood, Mr. McDaniel said KIPP employs all certified teachers. He said the instructional process he went through to lead KIPP was invaluable. KIPP's relationship with the school system and superintendent improved after charter school status was obtained.

In response to a question from Representative Carney, Mr. McDaniel said the biggest change he noticed when the school moved from district to charter status was his power to lead the program. He said student data will show that his students are not "cherry picked" and are actually several reading levels below grade level when they begin. If he were "cherry picking", he would select students who are reading above grade level.

In response to questions from Representative DeCesare, Mr. McDaniel said he had a good relationship with the teacher's union, but the community had to help bridge the gap with hostile relations with the school board. He said the urban areas in Oklahoma are starting to embrace the concept of charter schools and have applied to get char-

ter schools in their districts. Districts that do not embrace charter schools would not oppose the KIPP program as long as the charter school did not affect them. Most KIPP teachers are not active in a teacher's union, but have the option to join if they choose.

In response to questions from Representative Stevens, Mr. McDaniel said the KIPP school consists of grades five through eight. The teacher to student ratio in fifth and sixth grade is 32 students per teacher; in seventh and eighth grade it is about 22 students per teacher. He said 140 students applied to be in the program last year to fill 120 slots. If the parents and students do not keep the commitment to KIPP, they return to the regular school. Representative Stevens said there are many redeeming qualities in the KIPP program that could be incorporated in Kentucky public schools. He said it would be nice to find solutions in the public schools instead of sending so many children to alternative schools.

In response to a question from Senator Shaughnessy, Mr. McDaniel said KIPP is a national entity that started in 1995 and is not-for-profit. He said the students in KIPP were 99 percent African-American when the program initially began, but is now 80 percent African-American, 10 percent white, 7 percent Hispanic, 2 percent Native American, and 1 percent other. KIPP does not currently operate in any communities that are under desegregation orders.

Senator Winters told the audience members to turn in any written comments or testimony to Audrey Carr, Committee Staff Administrator, Education Committee. Comments will be delivered to the legislative members of the committee.

Comments on Charter Schools
Brent McKim, President, Jefferson County Teacher Association (JCTA), testified that charter schools are counterproductive and unnecessary in Kentucky. There is a difference between innovative educational programs and strategies, such as KIPP, and a charter school concept. Research has shown that charter school students score lower on the National Assessment of Educational Progress (NAEP) test and on fourth grade math assessment scores than students in traditional public schools. Charter schools typically enroll fewer special needs students. Numerous studies show that charter school students do not perform bet-

ter than students in the public education school system and typically perform worse.

Mr. McKim said charter schools are not necessary in Kentucky because of the level of local school empowerment through the school-based decision making councils (SBDM). These councils are authorized by law to set curriculum and school policies that supersede the school board. The passage of House Bill 176 in the 2009 legislative session authorized an Education Management Organization (EMO) to operate a failing school, if necessary. Ms. Jo Bell, JCTA teacher, was available for testimony but time prevented her from commenting.

Jerry L. Stephenson, Pastor, Midwest Church of Christ, Louisville, Kentucky, testified on behalf of charter schools. Data from 2009 indicates 96 of the 133 schools in Jefferson County reported in No Child Left Behind (NCLB) failed to make adequate yearly progress (AYP). He said 25 of the 133 schools were categorized in the Tier 5 level and face consequences for performance, while 18 of the schools were given Tier 5 status in NCLB. Jefferson County Public Schools have lost focus of its vision of all students reaching proficiency in core standards. Public charter schools would allow teachers and principals the ability to redirect their efforts to meet children's needs without impeding the progress of the students that are progressing at a faster pace. Low income and African-American parents have no input on where their children attend school, the curriculum they are taught, or the policies that control their education. SBDMs do not provide the same opportunities for children as public charter schools in the inner city.

Mary Ann Blankenship, Executive Director, Kentucky Education Association (KEA), spoke on behalf of more than 41,000 educators across the state. She said KEA's position on charter schools is that the association does not support any prior charter legislation, but is open to future discussions on the subject. A major concern of KEA is that charter schools too often do not live up to their promises. Research supports that charter schools with the same demographics often do worse, and seldom do better, than regular public schools. The Stanford study, in particular, showed that only 17 percent of students when matched with similar student demographics, performed better in charter schools.

Ms. Blankenship said a high number of charter schools have found significant levels of the misuse of funds, scandal, and overall poor practices within the schools. She also noted that several charter schools in almost every state have been shut down. KEA believes charter schools have the potential to weaken communities. They can lower the number of parents who volunteer and provide support for school and athletic events by taking students with involved parents out of the public school system. Kentucky voters do have a direct influence on their schools through their elected members of the local school board and electing parent members on SBDM councils. Public schools are subject to open records and open meeting laws which KEA feels is appropriate. KEA supports transparency and electoral accountability to the voters and to the parents.

Ms. Blankenship said some charter schools are run by national organizations. She said most money invested in public schools is reinvested in local communities through local merchants and local service providers. Charter schools that are supported nationally can lead to monies being directed to communities away from the local community where the charter school organization may be based.

Ms. Blankenship said school councils already provide Kentucky with much of what charter schools promise. She said school councils should be strengthened and given more autonomy to be level with charter schools. The law that allows charter schools to request waivers from state law should be implemented more often. State laws and regulations should be altered or eliminated that hinder student learning.

Ms. Blankenship said KEA believes charter schools have the potential to weaken other schools. Generally, charter schools try to attract one segment of the population either based on ethnicity or gender, or a program focus within a particular school. This detracts from the common vision of schooling in this country that says all children are treated equitably. Charter schools can easily dismiss the children not performing well and so the weakest students end up back in the public schools.

Ms. Blankenship said that some states provide funding for charter schools, which can diminish funding for public schools. Personnel matters

can be problematic and can jeopardize student learning. Research supports that teachers are most effective ten years into their career. Yet, charter schools are generally staffed by less experienced teachers and have a very high level of turnover. Schools need to be properly funded in order to adequately prepare teachers to teach students and meet higher goals.

Jim Waters, Vice President for Policy and Communications, Bluegrass Institute for Public Policy Solutions, said the rate of educational improvement for Kentucky students is unacceptable to the taxpayers and parents of the Commonwealth. He is concerned that the performance of Kentucky students is degenerating the longer they are in school. According to the Department of Education (KDE), 28 percent of fourth grade students, 37 percent of middle school students, and 59 percent of high school students are performing below proficient in math, including, 71 percent of students from low income homes and 79 percent of African-American students. Fewer than 30 percent of low income and minority students are proficient in math, science, social studies, and writing. Barely half of the high school sophomores from low income homes and only 44 percent of African-American students are proficient in reading. While there may not be universal support of charter schools, there should be universal acceptance that the way Kentucky is doing business now is not working.

Mr. Waters said research that claims charter schools are not successful is faulty work based on flawed methodology. He said this is causing an embarrassment to those that tout the research as being credible. Charter schools do work and deserve a chance in Kentucky. If research supports the notion that charter school students are performing at the same levels as public school students, then that supports the fact that charter schools are doing a good job because most students enter into those schools several grade levels behind. Specific statistics and materials supporting charter schools are included in the meeting materials located in the Legislative Research Commission (LRC) library.

Mr. Waters said over 10,000 students are attending Tier 5 failing schools in the Commonwealth of Kentucky. Teacher union contracts and collective bargaining agreements are preventing the kind of system

change that is necessary to break the cycle of insanity. Kentucky needs a policy that allows veteran teachers to be placed into low-performing schools to utilize their experience. He feels good teachers should be financially rewarded and poor teachers dismissed immediately. SBDM councils must comply with all the regulations and union contract restrictions that hamper Kentucky's education system. If these same burdens were placed on charter schools, they would be set up for failure. SBDM councils have been proven to be ineffective in leading schools as reported by "The Greater Louisville Education Report."

Robert Lewis, Associate Superintendent, Student Services, Hardin County Schools, Kentucky Association of School Administrators (KASA), said KASA does not oppose charter schools, but would like to see more collegial work being done to identify the pros and cons. He wondered if this was the right time to make a policy shift to charter schools when public schools are dealing with a stressed economy, stressed budgets, more accountability being placed on teachers in the classroom, reduction of force, and the rollout of new standards. Public schools deserve the chance to be innovative and to think outside the box. All high-performing schools have a dynamic leader, such as Mr. McDaniel, a positive school culture, positive parental support, and a good teaching staff. These attributes should be what Kentucky schools are striving to reach. KASA feels certain that the committee will investigate charter schools further and make the best decision for Kentucky students.

Wilson Sears, Executive Director, Kentucky Association of School Superintendents (KASS), said the charter school issue results in a disarray of research findings with no clear evidence that charter schools have a significant impact on student achievement. He believes it is not the time to distract from the public school's mission to provide a quality education for all children. This position is based on conflicting data regarding charter school success and the limited resources and many demands being placed on public school employees. He noted that 70 percent of Kentucky superintendents are opposed to charter schools and 30 percent support the idea because of "Race to the Top" funding issues.

Mr. Sears said legislative and

financial support of quality public schools is a better educational direction than a charter school system. While there is little doubt that many Kentucky schools need improvement, the idea that all the educational woes are a result of underperforming schools and inadequate instruction is a gross oversimplification. Many children suffer from single parent homes, drug ridden homes, and live below poverty level. Children come to school hungry and inadequately clothed and these problems are a barrier to learning. Public schools are doing the best they can with limited resources.

Bill Scott, Executive Director, and Shannon Pratt Stiglitz, Assistant Director, Government Relations, Kentucky School Boards Association (KSBA), said KSBA has many questions concerning charter schools and wants to begin a dialogue between legislators and school board members on the topic. Ms. Stiglitz said it is imperative to inform school board members on the particulars of charters since they would be authorizing the charter schools within their local districts. She said since charter schools are now located in 39 states, the volume of research has increased and many lessons have been learned. However, there is no distinct conclusion that charter schools are improving student achievement more than their traditional counterparts. Leading researchers and advocates of charter schools acknowledge that the research is confusing. KSBA continues to review each study released on charter schools and looks forward to finding the answers as to why some charter schools are successful and some fail. The answers are hard to find because each charter school is so different.

Ms. Stiglitz said state laws and regulations are suffocating schools and do not allow for innovation. School board members want to see all students succeed at high levels and support local districts having the same flexibility as charter schools in order to promote student success. Statutory and regulatory changes are necessary for public schools to offer smaller class sizes, extended school days, and flexibility in hiring and rewarding teachers, which are the positives of charter schools.

Ms. Stiglitz said it KSBA's belief that local school boards should be the sole authorizers of charter schools. She said seven states currently have school boards as the sole authorizer

and they have healthy numbers of charter schools. The KSBA is concerned that charter schools would take away much needed funding from the public schools and would like more research on charter schools located in rural areas. Finally, KSBA wants charter schools to be required to provide the same level of services to special education students.

In response to a question from Representative DeCesare, Mr. McDaniel said he is currently in a battle with Oklahoma City Schools to be included in the application pool for teachers. He said teacherteacher.com is used and they advertise for teachers in the local newspapers. It is hard to get teachers to apply when they do not know there is an opening. Representative DeCesare noted more than 60 percent of the general fund dollars are put into education and he said Kentucky needs to get a better bang for its buck. He said Kentucky has been at the bottom of the education list for a long time and he feels it is time to give Kentucky students the opportunity to attend a charter school. Transparency is not trying to evaluate a superintendent behind closed doors and feel superintendents should be thoroughly vetted.

In response to a question from Representative Firkins, Mr. McDaniel said KIPP is a public school that operates under a board of directors made up of community and business leaders. He said the school board and the superintendent are the authorizers of the school. If parents have a complaint, they sign up to speak at the KIPP Board of Directors meeting. They can also complain to the Oklahoma City School Board who can choose not to renew KIPP's contract after three years. Representative Firkins would like Mr. Sears to put his statements in writing and feels the public schools should be strengthened instead of adding charter schools.

Senator Givens said people should not feel discomfort with change, but should instead feel discomfort with failure. In response to a question from Senator Givens, Mr. McDaniel said the biggest challenge in Kentucky is going to be embracing change. Kentucky has not evolved in its educational system and has not embraced technology in instruction.

In response to a question from Representative Rollins, Mr. McDaniel said all KIPP teachers are certified. Mr. McDaniel said it is his policy to

have all teachers certified, but charter schools only require teacher certification in core subject areas.

In response to a question from Senator Kerr, Mr. McDaniel discussed the training he received for KIPP. He said the training taught him innovative learning strategies such as teaching children to learn by customizing rap songs and having them sing lessons. Senator Kerr would like to see Kentucky's professional development dollars put to better use.

Representative Wuchner would like the discussion on charter schools to continue. She would like to see all the groups who made comments to meet and work together and find common ground.

Senator Westwood said charter schools are public schools with a different set of regulations. He said any effort by the committee to change the status quo or policy in the public school system usually fails. Charter schools should be a tool in the toolbox that public schools can use if needed. There would not be a requirement for school districts to have to use charter schools, but right now it is not an option because it is against the law.

In response to a question from Representative Belcher, Mr. McDaniel said KIPP works with the parents to try and change their mindsets, but some parents leave the program and their child is returned to the public school. Representative Belcher said Kentucky needs to loosen regulations to allow the public schools more flexibility. She said it is not acceptable for children's needs not to be met.

Senator Winters said he would like to discuss the topic of school choice in a future meeting. He said JCTA would be included in the conversation.

Representative Richards welcomed the members to Bowling Green, Kentucky for the next meeting on September 13, 2010. The meeting will be held at South Warren High School and Middle School campus.

Senator Kerr stressed that it is very important that superintendents, school boards, principals, and teachers ensure that students are staying safe in outside activities. She said this heat index is above normal and is hard on band members and students playing sports.

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

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 3rd Meeting of the 2010 Interim

August 20, 2010

Call to Order and Roll Call

The 3rd meeting of the Special Subcommittee on Energy was held on Friday, August 20, 2010, at 8:00 AM Central Time, in the Conference Room at the Courtyard Marriott in Paducah, Kentucky. Representative Keith Hall, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Keith Hall, Co-Chair; Senators David E. Boswell, Ray S. Jones II, Bob Leeper; Representatives Eddie Ballard, Dwight D. Butler, Leslie Combs, Tim Couch, Will Coursey, Jim Gooch Jr., Martha Jane King, Fred Nesler, Tom Riner, and Brent Yonts.

Non-Members: Representative Steven Rudy

Guests: Colonel Keith A. Landry, Commander, Louisville District, United States Army Corps of Engineers; John Talbert, Big Rivers; Ken Wheeler; Norb Whitlock, Pam Helton, Kentuckians for Better Transportation.

LRC Staff: D. Todd Littlefield, Taylor Moore III, and Jennifer Beeler, Committee Assistant

Coal Transportation, Olmsted Locks and Dam, and NWP-21

In response to Senator Smith, Colonel Landry explained the locking process and stated that the technology has not changed much since the early 1700 and 1800s.

Representative Rudy stated that the Olmsted Dam is being built in Kentucky water and also in the first House district. He also stated that of the workers being hired in to work on the Olmsted project, half are from Kentucky and half are from Illinois. He said that the river industry is also vital in Kentucky.

Representative Hall said that the river industry provides about 6,500 jobs. He stated that in Kentucky about one-third of the coal comes from stripping, contouring and mountain development. If Kentucky's coal was no longer mined, that would be like shutting down the whole barge industry because 40 to 50 percent of barge traffic is coal.

Colonel Keith A. Landry, Commander, Louisville District, United States Army Corps of Engineers (USACE) stated that there are four corps of engineers districts that have a piece of Kentucky: Memphis, Louis-

ville, Huntington and Nashville.

In response to Representative Couch, Colonel Landry said the corps district boundaries were determined years ago by watersheds. For example, the Louisville district has the watershed of the lower Ohio River. He said the USACE tries to regulate issues on a state by state basis to prevent a state from having multiple districts to work with. Kentucky still has the distinction of having to work with four corps districts depending on where the operations fall when it comes to permit and regulatory issues. The Louisville district has responsibility for the entire commonwealth in terms of emergency management.

Colonel Landry stated that coal is the largest commodity that moves up and down the river. The value of the Ohio River to commodities and industry is transparent during normal operations. When lock closures occur, traffic can be slowed, even stopped, affecting the delivery of goods and ultimately increasing costs to the consumer. In the absence of the Ohio river navigation system, by 2050 the United States would have 80,000 fewer jobs and a loss of \$41 billion in economic income.

Colonel Landry said the USACE has a navigation center in the Huntington district that keeps track of statistics regarding what moves up and down the river. He said the navigation center can determine what products have come through any given lock.

He stated that in Kentucky, the USACE has an economic impact of 19,000 jobs and nearly \$2 billion. In fiscal year 2008 the Louisville district alone had an economic impact of 27,000 jobs and about \$7.5 billion nationwide.

Colonel Landry said locks and dams 52 and 53 are the last wooden wicket dams in Kentucky. These locks were built in the 1920s. Each lock has a 600 foot chamber approach wall out of alignment, as well as 1,200 foot chamber cells that are split apart and losing fill material. He stated that it is critical that Olmsted is finished in a timely fashion before something happens to locks 52 and 53. There is a requirement to keep a 9 foot deep channel for barge traffic. When the river drops too low, the barges cannot get through that portion of the river so it is necessary to pool water above the dam to allow them to pass through the locks. He said that locks 52 and 53 are the

busiest locks within the waterway system. To lose these two locks and to move the same cargo, would result in an additional 11,000 trucks added to our roadways every day for a year.

Colonel Landry stated that when the Olmsted Dam was originally authorized in 1985 it was projected to cost \$750 million, now it is projected to cost \$2.1 billion. The dam is not scheduled for completion until 2016 and at that time the USACE will remove locks 52 and 53. He said that Olmsted dam will become the busiest spot on the waterways system in the nation. When it is completed 25 percent of the coal in the nation will move through the locks at Olmsted.

Colonel Landry said that in the process of building this dam, the workers cast 6 pieces of the dam at a time. He stated that it takes approximately 9 months to precast each piece that weighs between 3,500 to 5,000 tons.

In response to Senator Smith, Colonel Landry stated that the river surface is first prepared with a grout mat, then the pieces will be dropped on top of that mat. Then the pieces will be grouted and secured in place to create a concrete sill.

In response to Senator Smith, Colonel Landry stated that there are friction piles that go through the grout mat, but not all the way to bedrock because it is too far down. It has been determined that there are sands that have not moved for a very long time so the pieces are anchored into the sand.

Colonel Landry stated that to build this project the corps purchased the largest gantry crane in the world. The crane can lift a maximum of 5,100 tons. This crane is required on this project to lift and carry the large precast concrete shells that will be set in the river to construct the dam. The catamaran barge has a maximum capacity of 4,500 tons and is required to carry the large precast concrete shells with attached lifting frames on the river from the lower marine skid way to the shells' final location.

He said that, using GPS and 3D imaging from the shoreline, the USACE was able to sculpt the river bed to the exact shape and contours that were necessary to keep ahead of the sand wave that moves across. He stated that the USACE will own all the equipment used to build the Olmsted Dam and that they have not made a decision on what to do

with the equipment the dam is completed.

Colonel Landry stated that Olmsted incorporates unique engineering because it is compromised of a wicket dam. The wickets can be lowered during high water and barges can navigate over the structure. The wickets are made of steel and during low water the wickets are raised with a hydraulic prop and at high water, they lay down allowing traffic to pass over the dam.

He said that 50 percent of the material that moves on the river is coal. Twenty percent of the nation's coal-fired generation capacity is in the Ohio river system. There are 56 coal-fired plants on the Ohio river system. He stated that most of the coal that is mined in Kentucky is not actually used in Kentucky.

Colonel Landry stated that in 2008 Governor Beshear unveiled the state's first-ever comprehensive energy plan. The plan calls for a 20 percent reduction in greenhouse gas emissions while creating 40,000 jobs tied to energy production and conservation between now and 2025. He said that McAlpine and Markland are two of the dams in Kentucky that produce hydropower. The USACE is currently in the process of making Smithland and Cannelton hydropower dams as well. He stated that when those dams are complete, the total hydropower generation capacity in the commonwealth will be three-quarters of a million kilowatts. He said that will be enough electricity to light up about one quarter of a million homes for a full year.

In response to Senator Smith, Colonel Landry stated that the dams that are currently being removed would not include the dams in Kentucky that are currently used for hydropower. He said that the ones that are being removed are the smaller, older agriculture dams that have not been maintained and are no longer needed. He said that there is no serious consideration about putting hydropower in Olmsted because there will not be as much of a change in elevation as is needed.

In response to Senator Smith, Colonel Landry said that the current generates the flow of the hydropower.

In response to Senator Boswell, Colonel Landry stated that the work stabilization being done at Wolf Creek was on track. They saw some additional movement in one of their indicators, stopped to do some as-

essment, and adjusted their plan to move forward.

In response to Representative Hall, Colonel Landry said that the USACE New Orleans district is involved in helping with the gulf oil spill. The Colonel said the main questions were what skills their staff had in case they were asked to go down and help.

Colonel Landry stated that the Louisville district has the regulatory authority for the whole state. When he first took command, the approval rate for general permits was above 90 percent, and now the rate is at 98 percent. He said that for individual permits, the rate was in the low 20 percent range when he took the job and now it is at 55 percent. He said that a permit is issued for the least environmentally damaging practicable alternative.

In response to Representative Couch, Colonel Landry said that in the most recent permits, due to a high level of additional mining, the USACE has asked for additional testing.

In response to Senator Smith, Colonel Landry said that he is responsible for approving permits that cause the least amount of environmental damage possible.

In response to Senator Jones, Colonel Landry stated that he is just responsible for enforcing the regulations.

Representative Combs stated that in her understanding, the EPA delegated regulatory authority to the USACE. Colonel Landry responded that the regulatory authority resides with the EPA. He said they have delegated the permitting to the USACE but they have retained the ability to override the decision.

In response to Representative Combs, Colonel Landry stated that permits related to the waterways and coal mining are issued by the USACE. There are other state agencies that deal with other kinds of permits.

Meeting adjourned.

After the meeting adjourned the members took a tour of the Olmsted Lock and Dam.

**INTERIM JOINT COMMITTEE
ON HEALTH AND WELFARE
Minutes of the 3rd Meeting
of the 2010 Interim
August 18, 2010**

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, August 18, 2010, at 10:30 a.m. Central Day-

light Time, at the Wendell Foster's Camp for Developmental Disabilities, Young Meeting House, 815 Triplett Street, Owensboro, Kentucky. Representative Tom Burch, Co-Chair, called the meeting to order at 1:38 p.m., and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Tom Burch, Co-Chair; Senators Julian M. Carroll, Perry B. Clark, Denise Harper Angel, and Joey Pendleton; Representatives Jim Glenn, Brent Housman, David Watkins, and Addia Wuchner.

Guest Legislators: Senator David Boswell; and Representatives Jim Gooch and Tommy Thompson.

Guests: The Honorable Wendell H. Ford; Jody Wassmer, President, Greater Owensboro Chamber of Commerce; Terry Brownson, CEO, Wendell Foster's Campus for Developmental Disabilities; Deborah Fillman, MS, RD, LD, CDE, Public Health Director, Green River District Health Department; Jeff Barber, President and CEO, Owensboro Medical Health System; Jodi Mitchell, Kentucky Voices for Health; Mary M. Corbett, Norton Healthcare, Louisville; Elizabeth Edwards; John Talbert, BREC; Vivian Craig McNatton, Green River Area Development District; Cathy Franey, OCHN; John and Debbie Gilbreath, Stonebridge Insurance; Murray Wood, Lisa Osborne, and Mary W. Sparn, Cabinet for Health and Family Services; Merritt Bates Thomas and Clay Horton, Green River District Health Department; Rich Suwanski, Owensboro Messenger Inquirer; Ashley Bradshaw, Chamber of Commerce; Pat Floherth, Attorney; Marla Breswell, Wendell Foster's Campus for Developmental Disabilities; Patricia L. Simon, Owensboro medical practice; Bruce Kunze, Daviess Fiscal Court; David Mast, Mast Solutions; Jeremy Eage, Hilliard Lyons; Carl Boes and Steve Shannon, Kentucky Assn. of Regional Mental Health-Mental Retardation Programs, Inc.; Wendell Smith, Owensboro Place Care and Rehabilitation; Sean Cutter and James Higdon, McBrayer, McMillan, Leslie and Kirk; Ron Wrona; Sarah Nicholson, Kentucky Hospital Association; and Tim Veno, Kentucky Association of Homes and Services; and Marty White, Kentucky Medical Association.

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

Consideration of Referred Ad-

ministrative Regulations

The following referred administrative regulations were on the agenda for consideration: 201 KAR 20:510 – sets the procedure for a nurse who desires to relinquish a license prior to its expiration date. The same procedures shall apply to advanced practice registered nurses, sexual assault nurse examiners, and dialysis technicians with the credential issued by the KBN; 900 KAR 6:060 – establishes the timetable for submission of application requirements necessary for the orderly administration of the Certificate of Need Program; 902 KAR 20:400 – establishes licensure requirements for the operation of and services provided by limited services clinics; 921 KAR 1:410 – establishes procedures for collection and enforcement of child support; 921 KAR 2:530 – establishes the Work Now Kentucky Program in accordance with 42 U.S.C. 603 as amended by Pub. L. 111-5. A motion to accept the referred administrative regulations was made by Representative Burch, seconded by Senator Denton, and accepted by voice vote.

Resolution

A resolution honoring the life of Dr. Cornelia Jarmon Glenn was read and presented to Representative Jim Glenn. A motion to adopt the resolution was made by Senator Pendleton, seconded by Representative Housman, and adopted by voice vote.

Collaboration: Key to a Healthy Region

Jody Wassmer, President, Greater Owensboro Chamber of Commerce stated that the city and county voted in a joint session to approve the downtown and riverfront redevelopment project and the funding mechanism. The jointly-appointed commission is overseeing the events and convention center project. The Chamber Leadership Initiatives for Northwestern Kentucky (C-LINK) has 3,250 members from Breckinridge, Daviess, Hancock, Henderson, Hopkins, McLean, Muhlenberg, Ohio, Union, and Webster Counties. The Greater Owensboro Economic Development Corporation has a partnering agreement with the Hancock County Industrial Foundation. It also works with the Northwest Kentucky Forward, the economic development organization for Henderson, Union, Webster, and McLean Counties. The number one project is I-69 Spur. In response to a question by Senator Denton, Mr. Wassmer stated that in 1989, a vote to merge the county

and city governments was defeated three to one. Discussions continue about merging the two governments. Representative Burch stated that the measure to merge city and county governments failed several times until it was successfully passed.

Quality, Efficiency and Partnerships for People with Developmental Disabilities

Terry Brownson, CEO, Wendell Foster's Campus for Development Disabilities, stated that since 1947 the campus has been a 501(c)(3) non-profit community partner that empowers people with developmental disabilities to realize their dreams and potentials. Services include intermediate care facility, supports for community living, independent living, outpatient rehabilitation and community supports, early intervention therapies and training, assistive technology center and evaluations, work training program, Western Kentucky University Kelly Autism Program, and professional internships. The campus collaborates with the Hugh E. Sandefur Training Center, the Western Kentucky University, University of Kentucky, Eastern Kentucky University, University of Southern Indiana, University of Evansville, Brescia University, Kentucky Wesleyan College, Bellarmine, and Spaulding. Representative Burch explained that services for developmental disabled individuals have vastly improved since the mid-1960s. Senator Pendleton stated that people outside of Owensboro need to hear about the services that the Wendell Foster's Campus has to offer.

Public Health: Success, Challenges and Emerging Needs in the Green River District

Deborah S. Fillman, MS, RD, LD, CDE, Public Health Director, Green River District Health Department stated that its mission is to promote, protect, and enhance the health and well-being of the public. The health department serves Henderson, Union, Webster, McLean, Hancock, Ohio, and Daviess Counties and serves a population of approximately 212,000 individuals. It provides services for chronic diseases, teenage mothers, well child screenings, adult and child immunizations, breast and cervical cancer screenings, communicable diseases, family planning, WIC, 38 school sites, home health, HANDS, and point of entry for First Steps. The health department has a \$17 million budget and has 260 employees. In 2009, the WIC recipients

spent approximately \$4.7 million dollars in the community. In response to a question by Representative Burch, Dr. Fillman stated that illegal aliens do impose a financial stress on the health department, because the health department has to absorb those costs from their existing budgets. All people are treated and provided the same services no matter their citizenship status. In response to a question by Senator Denton, Dr. Fillman stated that refugees are under federal laws and regulations, but there are gaps. In response to a question by Senator Denton, Dr. Fillman stated that the health department does work with the entities that provide sponsorships.

Staying Ahead of Health Reform: One Hospital's Journey

Jeff Barber, DrPH, President and CEO, Owensboro Medical Health System, stated its mission is to heal the sick and improve the health of its community, and its vision is to become a regional center of excellence. The hospital has a financial assistance program for uninsured patients. Hospital provider challenges include stress on the Medicaid program and cost containment from reform's expanded roles, pressure to change or dismantle the Certificate of Need process, worsened physician shortage environment from coverage expansion, and medical liability reform. In response to a question by Senator Denton, Mr. Barber said that the \$92 million attributed to Medicaid was for the entire Owensboro Medical Health System, not just the hospital. In response to a question by Senator Denton, Mr. Barber stated that the hospital worries more about access to care than inappropriate emergency room visits, but do redirect some individuals who could see their own primary care physician instead of receiving services at the hospital. In response to a question by Representative Glenn, Mr. Barber stated that there needs to be a balanced ratio of different types of nurses who are adequately trained and supervised.

Adjournment

There being no further business, a motion to adjourn at 3:05 p.m. CDT was made by Senator Pendleton, seconded by Representative Watkins, and approved by voice vote.

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 3rd Meeting of the 2010 Interim

August 11, 2010

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Judiciary was held on Wednesday, August 11, 2010, at 10:00 AM, in Room 171 of the Capitol Annex. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Jensen, Co-Chair; Representative John Tilley, Co-Chair; Senators Perry B. Clark, Ray S. Jones II, Mike Reynolds, John Schickel, Dan "Malano" Seum, Katie Kratz Stine, and Jack Westwood; Representatives Johnny Bell, Jesse Crenshaw, Joseph M. Fischer, Kelly Flood, Jeff Hoover, Thomas Kerr, Stan Lee, Mary Lou Marzian, Harry Moberly Jr., Darryl T. Owens, Tom Riner, Steven Rudy, and Brent Yonts.

Guests: Representative Ruth Ann Palumbo; Sheila Schuster, Kentucky Mental Health Coalition; Dr. Russ Williams, Kentucky Psychological Association; Phillip Gunning, Yolanda Clay, Cathy Epperson; Charlotte Stogsdill, Kelly Coffey, and R. Owen, National Alliance on Mental Illness; Ernie Lewis, Kentucky Association of Criminal Defense Lawyers; Chris Cohron, Kentucky Commonwealth Attorneys Association; Damon Preston, Department of Public Advocacy; Liz McHune, KPA and DOC; Thomas Van De Rostyne, Assistant Jefferson County Commonwealth Attorney; Marian Taylor, Kentucky Council of Churches; Raphael Schweri, Maria Hines, Don Stern, Carl Wedekind, Shameka Parrish Wright, Dawn Jenkins, Kaye Gallagher, Ben Lyons, Valerie Mudd and Sarah Brumfield, Kentucky Coalition to Abolish the Death Penalty; and Molly Oberhausen and Zenaida Lockard, Kentucky Equal Justice Center.

LRC Staff: Norman Lawson Jr., Jon Grate, Joanna Decker, Ray Debolt, Jr., Kyle Moon, and Rebecca Crawley.

Chairman Tilley called the meeting to order, the roll was called and a quorum was present, and the minutes were approved by voice vote.

Eliminating the Death Penalty for the Mentally Ill

The first speakers were Sheila Schuster of the Kentucky Mental Health Coalition, Dr. Russ Williams representing the Kentucky Psychological Association, and Ernie Lewis representing the Kentucky Association of Criminal Defense Lawyers. They were appearing in support of 2010 RS HB 16, which would prevent the execution of persons with severe mental illness. Ms. Schuster said

severe mental illness is not premeditated and persons with severe mental illness lack moral capacity and do not fear punishment. It is her intention to seek introduction of House Bill 16 during the 2011 Regular Session.

Dr. Williams observed that persons with severe mental illness may have schizophrenia, delusional disorders, fixed erroneous beliefs, hallucinations, or depression, and may exhibit unpredictable agitation. These disorders can be readily identified, diagnosis is 70-80 percent accurate, and persons who are malingering and who are not really severely mentally ill can be detected with 100 percent accuracy. Persons with severe mental illness do not understand their actions and volitions and are not criminally responsible for their actions at the time of the offense.

The next speaker was Mr. Ernie Lewis representing the Kentucky Association of Criminal Defense Lawyers. Mr. Lewis indicated people with severe mental illness are subject to the provisions of the Eighth Amendment to the Constitution of the United States which prohibits cruel and unusual punishments. He reviewed the various United States Supreme Court decisions relating to the death penalty, including *Furman v. Georgia*, which eliminated the death penalty in the United States; *Gregg v. Georgia*, which restored the death penalty for a limited range of offenses under stricter conditions; *Atkins v. Virginia*, which eliminated the death penalty for the mentally retarded; and *Roper v. Simmons*, which eliminated the death penalty for persons who were under 18 at the time of the commission of the offense. He said that executing the severely mentally ill does not meet either of the two death penalty's two purposes, deterrence and retribution.

Mr. Lewis described the Supreme Court's view of the death penalty in recent cases as an evolving standard of decency, increasing protection for those with a diminished capacity to appreciate the nature of their conduct, and said that elimination of the death penalty for the severely mentally ill is an appropriate legislative protection. Since persons who are opposed to the death penalty are excluded from juries in death penalty cases, jurors who favor the death penalty "cannot be trusted." Studies have shown such jurors are more likely to convict persons, and some prosecutors try all cases where there is a death penalty aggravator as death

penalty cases.

Representative Fischer questioned Dr. Williams about the language of the bill relating to “severe disorder or disability” and asked if it matched the language used by the mental health community. Dr. Williams responded that the language does not match but is parallel. Representative Kerr suggested several language changes. Representative Hoover observed the language relating to exempting voluntary use of alcohol and drugs might actually remove protection from persons who may need to be protected. Representative Lee asked if there is a biological marker which can identify severe mental illness or if there are other factors that can be important, and Dr. Williams responded the research is mixed and several factors should be considered.

The next speaker was Warren County Commonwealth’s Attorney Chris Cohron, Legislative Chairman of the Commonwealth’s Attorney’s Association. Mr. Cohron indicated his organization opposes the bill and that Supreme Courts in Indiana, Georgia, Pennsylvania, and Ohio have rejected elimination of the death penalty for the severely mentally ill. The definition of what constitutes severe mental illness is so broad and ambiguous that every person who commits a death penalty eligible offense would not be subject to the death penalty, and it could be argued that every person who commits a crime has a personality disorder. The current guilty but mentally ill statutes protect such persons, and to his knowledge, no one on Death Row in Kentucky has been found to be guilty but mentally ill.

Representative Moberly commented about Mr. Lewis’ comment regarding not being able to trust juries was inaccurate and the jury system is a foundation of the United States legal system. Mr. Lewis indicated that juries may be afraid of a defendant who is mentally ill and be more inclined to convict and impose the death penalty. Ms Schuster commented the severely mentally ill represent only 2 percent of the population. Senator Jones observed the jury system works well and that judges would not decide cases better than a jury because some judges are conviction-oriented and that only one of twelve jurors can eliminate the use of the death penalty. Representative Fischer asked how many states had eliminated the death pen-

alty for the severely mentally ill, and the response was that no state has done so.

Discussion of Expanding the Hate Crime Statute to Include Homicide

The next speaker was Assistant Jefferson Commonwealth’s Attorney Tom Van De Rostyne, who described what he believed to be an oversight in KRS 532.031, relating to hate crimes, which does not include homicide offenses, but does include assaults and other offenses. Mr. Van De Rostyne described the recent case of Commonwealth v. Michael Stone. Mr. Stone murdered an African American victim under circumstances that the Commonwealth believed to be a hate crime.

After the defendant entered a guilty plea to Manslaughter in the Second Degree and Tampering With Physical Evidence, the Commonwealth moved to have the crime designated as a hate crime pursuant to KRS 532.031. Public Defender Sheila Seadler countered that the list of enumerated crimes in KRS 532.031 does not include any offense in KRS Chapter 507 relating to homicide and such a designation was improper. Senior Status Circuit Judge Geoffrey Morris observed while other states included homicide in hate crime statutes as did the federal government, Kentucky had not done so and denied the motion. Mr. Van De Rostyne asked that the statute be amended to include homicide, kidnapping, disorderly conduct in the first degree, gender, and age, and that penalties for a hate crime be enhanced.

Representative Palumbo indicated that age and gender should be added to the law. Senator Schickel observed that if all persons are equal that laws should not be enacted to protect certain persons.

The next speaker was Damon Preston, Trial Division Director for the Department of Public Advocacy, who commented that fiscal reality suggests to the General Assembly this is not the time to send more persons to prison for longer periods of time, and that penalty enhancements for violent crimes are already in the law. Mr. Preston indicated the Department of Public Advocacy opposes the change. Senator Reynolds commented that the homeless might be included as a protected class.

The meeting adjourned at 11:45 a.m.

INTERIM JOINT COMMITTEE

ON LABOR AND INDUSTRY Minutes of the 2nd Meeting of the 2010 Interim

August 19, 2010

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, August 19, 2010, at 11:00 AM, at the Corvette Assembly Plant in Bowling Green, Kentucky. 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, Julie Denton, Denise Harper Angel, and Jack Westwood; Representatives Will Coursey, C. B. Embry Jr., Bill Farmer, Tim Firkins, Charlie Hoffman, Dennis Horlander, Thomas Kerr, Adam Koenig, Charles Miller, Terry Mills, Tom Riner, Charles Siler, Jim Stewart III, and Brent Yonts.

Guests: David Tatman, Plant Manager, Corvette Assembly Plant; other plant officials; Representative Jody Richards.

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

Representative Nelson chaired the meeting and announced that Senator Kerr, co-chair, was unable to attend.

Corvette Assembly Plant

The meeting was held at the Corvette Assembly Plant in Bowling Green. The agenda included a discussion of HB 104 by Rep. Jody Richards and a presentation from Mr. David Tatman, plant manager of the assembly plant. The meeting concluded with a tour of the assembly plant.

Representative Richards commented on the importance of the assembly plant to the state and especially to Bowling Green and expressed appreciation to the members of the General Assembly for enacting HB 104 which designated the Corvette as the official sports car of Kentucky. Representative Richards introduced the new plant manager, David Tatman, and other officials including Eric Henning, Regional Manager from Detroit; Andrea Hales, Communications Manager at the Bowling Green Assembly Plant; managers of various aspects of the Corvette production process; and representatives of the United Auto Workers (UAW).

Mr. Tatman said he had been the plant manager for 4 days. He provided an overview of General Motors (GM) and its difficulties during 2009 before discussing the Bowling Green

Assembly Plant. He commented on the difficulties experienced by General Motors (GM) during 2009, including the bankruptcy of the company that lasted forty days. He said the company has restructured, retooled, discontinued 4 brands (Saturn, Hummer, Pontiac, and Saab) and is now in a better position, financially and competitively, for the future. GM has added 9100 jobs since its bankruptcy in 2009.

According to third party automotive sources, GM is closing the gap with its competitors in terms of quality. Since 2007, GM has decreased warranty repairs by 45% which translates to approximately \$2 billion in savings to the company. GM provides a five-year, 100,000 mile warranty that transfers with the vehicle.

Mr. Tatman said GM is continuing to focus on its brands. The Chevrolet is the worldwide signature brand of GM. Buick is becoming the trademark for affordable elegance and maintains a high market presence worldwide. GMC is probably the best well-defined GM brand and is the truck of choice for professional grade workers. Cadillac is returning to its former elegance and stature and continues to have some of the highest level of buyer loyalty of any brand in the world. The Chevy Volt, available later this year, is GM’s highly touted new brand and is receiving very positive reports.

The Corvette Assembly plant in Bowling Green produces four Corvette models, Coupe, Grand Sport, Z06, and ZR1. Approximately 1.5 million Corvettes have been produced between 1953 and 2009. The plant is approximately 1 million square feet and all production is done in one shift per day. The workweek consists of four 10-hour shifts.

Approximately 480 workers are employed at the Corvette plant, which is about half the number employed in previous years. The Corvette assembly plant produces eight vehicles per hour. Three suppliers in Bowling Green and eighteen in the state support the assembly plant.

Over 1.3 million visitors have toured the plant during the past twenty-nine years. The plant partners with Western Kentucky University. Students conduct tours of the plant and many are employed in various aspects of the operations relevant to their majors. The Corvette plant tours combined with the tourists visiting the National Corvette

Museum have produced an economic impact of over \$200 million since the plant opened in Bowling Green.

Responding to questions from the committee, Mr. Tatman and other officials stated that GM is still the industry leader in the number of dealerships, including 1800 in rural areas, even though many have closed during the past year. China is the largest automotive market in the world and GM has the largest share of the China automotive market. Buick is the one of the most popular vehicles in China.

Following the meeting, members toured the assembly plant.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 2nd Meeting of the 2010 Interim

August 25, 2010

Call to Order and Roll Call

The second meeting of the Interim Joint Committee on Local Government was held on Wednesday, August 25, 2010, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Damon Thayer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Senators Walter Blevins Jr., Julian M. Carroll, Mike Reynolds, John Schickel, Elizabeth Tori, and Johnny Ray Turner; Representatives Mike Denham, Ted Edmonds, Derrick Graham, Richard Henderson, Charlie Hoffman, Dennis Keene, Adam Koenig, Stan Lee, Tom McKee, David Osborne, Arnold Simpson, Ken Upchurch, and Jim Wayne.

Guests: Cindy Rich, Boone County Property Valuation Administrator; Rick Brueggemann, Hemmer, Pangburn, DeFrank, PLLC; Dana Mayton, Deputy Attorney General; Andrew Hartley, Matthew Frohlich, and Wendy Thompson, Department for Local Government; Jeff Kelly, Webster County Property Valuation Administrator; Garth Kuhnhein, Terry Donoghue, and Lou Hartfiel, Northern Kentucky Tea Party; J.C. Morgan, Campbell County Library; Terry Manual, Department for Libraries; Ted Blaney, Owen County Tea Party; Eddie Tammy, Boyle County Property Valuation Administrator; and J. R. Roth, Kentucky Woodland Owners.

LRC Staff: Mark Mitchell, Joe Pinczewski-Lee, Kristopher Shera, Pam Thomas, Tom Willis, Matt Niehaus, Bryanna Carroll, and Cheryl Walters.

Approval of Minutes

Upon the motion of Representative Henderson, seconded by Senator Schickel, the minutes of the June 23, 2010 meeting were approved.

Consideration of Resolution

Senator Thayer asked for a motion to adopt a resolution adjourning the meeting in memory of Janet Harris, Senator Harris' wife who passed away recently. Representative Osborne so moved, seconded by Representative Denham. The motion carried by voice vote.

Discussion of Rate Calculations in 1979 HB 44

Senator Thayer told the committee that Mrs. Cindy Rich, Boone County Property Valuation Administrator (PVA), had expressed concerns to him regarding 1979 HB 44 and that he invited her to address those concerns. He then recognized Senator Schickel to introduce Mrs. Rich.

Senator Schickel told the committee that Mrs. Rich was a Certified Public Accountant and has been Boone County's PVA since 2006. As PVA, Mrs. Rich has discovered how tax rates are calculated and has taken a personal interest in attempting to make sure the public is not being misled. Senator Schickel added that Mrs. Rich firmly believes that some districts are able to take in more than the four percent allowable revenue increase per HB 44, which she believes was not the original intent behind the bill. He stated that Mrs. Rich has decided to educate taxpayers in the hopes to make the legislature aware of the problem and get it changed.

Mrs. Rich introduced Mr. Rick Brueggemann, an attorney representing her, to answer questions from the committee. She told the committee that she was appearing before the committee as a concerned citizen, not as a PVA. Mrs. Rich told the committee that HB 44 was passed by the General Assembly in 1979 and the original intent was to prevent taxing districts from raising tax revenue, as opposed to rates from real property more than four percent. There is a common misconception among taxpayers that if the rates do not go up, then taxes do not go up. No matter what the assessments, the revenue should go up no more than four percent. The focus is on tax revenues collected, not the previous year's rate. The compensating rate is the rate which will produce the same amount of revenue as the previous year, excluding new property.

After providing an explanation

of the compensating tax rate, Mrs. Rich stated that taxing districts are permitted to take up to four percent increase in revenue without it being subject to voter recall. This is not happening. If there is a difference in real and tangible property rates, the calculation, as being interpreted in the statute, is allowing for a more than four percent increase without that amount in excess of four percent being subject to voter recall. This is according to tax rate calculations and work sheets prepared by the Department for Local Government (DLG) and the Department of Libraries and Archives.

After citing a case example from the Owen County Library District and the Boone County fiscal court, Mrs. Rich explained that in time of increasing assessments, tax rates are failing to drop. Taxpayers are being led to believe revenue is only able to go up four percent or that revenue is not going up at all. Mrs. Rich pointed out that KRS 132.010(6) defines the compensating rate and allows interpretation of the "minimum revenue limit" test. Personal property, which is often times taxed at a higher rate, is being "lumped in" to the tax rate calculation. This effectively weights the average of the real and personal property rates and makes the compensating rate higher than it would normally be, or what it would be if the two rates were the same. Personal property is then taken back out.

Mrs. Rich provided an example of a county's process for setting the property tax rates that demonstrated how the revenues can exceed four percent without invoking the possibility of public recall.

Mrs. Rich told the committee that she requested an Attorney General's Opinion (OAG 10-005, included in the members' folders) asking, "Is it proper to include personal property when it is specifically excluded under the first sentence of KRS 132.010(6)?" The answer was, "the exclusion only applies to the first sentence, not the second sentence of the definition." Also, when there is a rate disparity between real and personal property rates, it allows such districts to set a higher tax rate without voter recall. No counties have real and personal property rates that are the same, and as a result are truly subject to the four percent limit. Some districts are taking advantage of the minimum revenue limit and others are not. The result is that some citizens enjoy rights of recall for real

property tax revenue increases beyond four percent, while others do not. This unequal treatment among taxpayers of the same class is constitutionally permissible according to the most recent Attorney General's Opinion requested, because it results from decisions made by the county fiscal courts or other local taxing authorities and not the classifications that are in the statute.

Mrs. Rich told the committee that in 1980, the former Attorney General, presently Governor Beshear, issued an Opinion indicating "the clear and unambiguous intent of the General Assembly was to place a ceiling upon real property tax rates while specifically exempting personal property tax rates." The Opinion further stated, "The very definition of 'compensating tax rate' evinces a legislative intent that only revenue from real property comes within HB 44 limitations. Personal property and new property are specifically excluded from the definition of 'compensating tax rate.'" The answer, again, was that it was referring to the first sentence, not the second sentence of the statute.

Mrs. Rich stated that HB 44 intended to limit revenue collected from real property by four percent over the previous year by allowing voter recall. Greater percentages are allowed without triggering recall because KRS 68.245(6) uses the term "compensating tax rate" in calculating its four percent limit. Since the definition of "compensating tax rate" allows greater percentages to be collected, there is no true four percent limit on increases of tax revenue from real property.

In conclusion, Mrs. Rich suggested that the legislature can fix this problem by mandating that the real and personal property rate be the same, or define a compensating rate for each class that is calculated completely separate of the other. "Personal property" should be excluded from both the first and second sentence of KRS 132.010(6) for perfect clarity.

Senator Carroll commented that the problem may be a misinterpretation of the statute by DLG. It was the intent in 1979 to limit revenue from both classifications of property to not more than four percent.

Mr. Brueggemann said he believed that the original intent of HB 44 was to limit the amount that real property taxes can increase from the previous year and that the "howev-

er” clause in the definition of “compensating rate” was placed there to guarantee for a certain year at least the same amount of revenue as the previous year in consideration of personal property rates.

Senator Carroll said that at a future time, the Attorney General and DLG should have the opportunity to address the committee.

In response to a question from Representative Simpson, Mr. Brueggemann said his office believed the two opinions of the Attorney General were in conflict in terms of the application of personal property tax to HB 44, but did not believe the Attorney General viewed them as being conflicted.

Representative Simpson commented that he agreed that DLG was not applying the tax as it should be applied. He told Mr. Brueggemann that he might have to seek resolution in court at which Mr. Brueggemann responded that a court resolution was being considered with a desire to fix the situation in the most expeditious manner possible.

Senator Thayer commented that, in contrast to the elected fiscal court setting tax rates, there is no recourse for taxpayers because board members of special districts are appointed rather than elected.

Representative Koenig commented that he would also like to hear from DLG and the Attorney General. In response to a question from Representative Koenig regarding what would happen when new property was incorporated into the rest of the taxable property, Mrs. Rich said the rates would go down.

In response to a question from Representative Lee about how much money taxpayers may have wrongly paid since 1979, Mrs. Rich predicted millions of dollars. Representative Lee commented that he would encourage testimony from the Attorney General regarding the most recent Attorney General Opinion.

In response to a question from Representative McKee, Mrs. Rich said the Attorney General has indicated that the tax rates have been calculated in the same manner for 30 years.

Mr. Brueggemann said he felt that the situation changed in the early 1980s when personal property rates and real property rates became different after the previous Attorney General Opinion.

In regard to protecting the agricultural community, Representative

McKee urged caution for legislative changes to HB 44.

Representative Wayne commented that the broader issue of how people are governed at the local level needs to be looked at and that he felt the current system of local government is very inefficient, noting the number of county government in Kentucky and that the state itself has to provide finances to support the local governments. He encouraged a consolidation of services.

In response to a question from Senator Schickel, Mrs. Rich said Boone County’s, specifically, and other counties’ assessments are decreasing, but to what extent, she could not address on a statewide level. Senator Schickel commented that he was concerned about the situation in an economic downturn that despite falling property values, the citizens were still expected to produce the same amount of revenue.

In response to a question from Senator Reynolds, Mrs. Rich said schools in Northern Kentucky are truly limited to four percent and are using the same rate for real and personal property.

Senator Thayer asked Deputy Attorney General Dana Mayton to address the committee and answer questions from members. Deputy Attorney General Mayton told the committee that generally, the opinions speak for themselves, and that when crafting opinions, the Attorney General seeks input from others. In this instance, the Attorney General determined that DLG was calculating the rate correctly according to a strict interpretation of the statutes. The legislature makes policy and the Attorney General’s Office defers to the General Assembly on how it would proceed on this matter.

In response to a question from Representative Lee, Deputy Attorney General Mayton said that the Attorney General’s involvement in a lawsuit pertaining to the litigation would depend on the analysis of the allegations and a decision made whether to intervene.

In response to a question from Representative Lee, Deputy Attorney General Mayton said even though she was not sure, she thought 20 or 30 days would be the time limit for the Attorney General’s office to a suit which questions the constitutionality of the statute. She will report back to the committee with the exact answer.

Senator Carroll commented that

an appropriate suit would be declaratory in nature to interpret a statute in question. He filed a bill that was passed in the 1960s requiring farm property to be assessed at farm property values.

Senator Carroll further commented that OAGs are not written by the Attorney General himself but rather are written by expert staff members of that office.

Senator Thayer asked Mr. Andrew Hartley, staff attorney for DLG, to address the committee. Mr. Hartley introduced Mr. Matt Frohlich, who is responsible for the tax rate calculations. Mr. Hartley told the committee regarding the calculation of the compensating tax is no more and no less than a mathematical formula. DLG is following the rigorous and literal word of the statute for calculating the compensating tax rates.

Senator Carroll noted after Mr. Hartley discussed the two calculations of the compensating tax rate and the four percent rate that he believed that the difference in opinion from his perspective may be that the compensating tax rate is calculated to be less than the four percent rate, but greater than the previous year’s revenue.

Mr. Hartley said he would be glad to present the brief that they provided to the Attorney General’s office to the committee which contains various mathematical examples. Senator Thayer asked that he make it available to LRC staff.

Senator Thayer announced that Pam Thomas, Committee Staff Administrator of the Appropriations and Revenue could provide history to the committee at a future meeting and also Mr. Hartley could be invited back to address the committee.

Representative Simpson clarified that DLG was simply using the wording of the statute to make the calculations to which Mr. Hartley agreed.

Representative Lee stated that a copy of Mr. Brueggemann’s brief should be given to the committee and any documents from the Attorney General’s office.

Senator Thayer commented that this is an issue that the public should be aware of.

Mr. Brueggemann noted that even if a declaratory judgment is rendered agreeing with DLG’s method, that a legislative change may still be pursued.

Senator Thayer recognized Mr. Jeffrey Kelly, Webster County PVA, to address the committee. Mr. Kelly

told the committee that tax rates have been a mystery to taxpayers and that the process needs to be looked at. HB 44 provides a ceiling and a floor. Mr. Kelly questioned why four percent was chosen.

Senator Thayer recognized Mr. Garth Kuhnhein to speak for taxpayers. Mr. Kuhnhein talked about the Boone County Library District’s understanding that the board had to take the compensating tax rate. Appointed library board members make tax decisions. The library received on average 85 percent of what the county receives to operate the library.

Senator Thayer recognized Mr. J. C. Morgan, Director of the Campbell County Public Library. Mr. Morgan stated that the property tax is the only tax that libraries get in contrast to other revenue sources available to counties. The library district has been a good steward of the taxpayers’ money. HB 44 has benefitted libraries and asked the committee to think of libraries when it considers any changes to the law.

Senator Thayer announced that the committee’s next meeting would be a joint meeting with the State Government Committee in Georgetown at Toyota.

There being no further business, the meeting was adjourned at 12:10 p.m.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

Minutes of the 3rd Meeting of the 2010 Interim

August 5, 2010

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, August 5, 2010, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Brandon Smith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Senators David E. Boswell, Ray S. Jones II, Bob Leeper, John Schickel, Katie Kratz Stine, and Gary Tapp; Representatives Hubert Collins, Tim Couch, Keith Hall, Stan Lee, Reginald Meeks, Tim Moore, Don Pasley, Marie Rader, Kevin Sinnette, Fitz Steele, Jim Stewart III, and Jill York.

Guests: Leah MacSwords, Division of Forestry; Betty Williamson, Kentucky Woodland Owners Association; Dr. John Obrycki, University of Kentucky Department of Entomol-

ogy; Bob Bauer, Kentucky Forest Industries Association; Johnny Greene and Greg Goings, Office of Mine Safety and Licensing.

LRC Staff: Tanya Monsanto, Biff Baker, Stefan Kasacavage, Tom Middleton, and Kelly Blevins

Division of Forestry, Kentucky Statewide Assessment and Strategy

After a motion and a second, the July 1, 2010 minutes were approved. Leah McSwords, Director of the Division of Forestry discussed the Statewide Assessment of Forest Resources and Strategy which was a mandated report under the 2008 US Farm Bill. The assessment must include conditions, themes, threats, resources, and interstate issues. It must also set priorities, create strategies and describe the resources available in each state. The National Association of State Foresters provided a \$31,000 grant for the study.

In Kentucky, the top 5 issues are forest health, water quality and quantity, forest loss and fragmentation, forest management and a compilation of various issues such as mountaintop removal, fire, climate change, and public access. Kentucky suffers from several problems such as invasive species including plants such as kudzu and insects, such as the emerald ash borer, and Kentucky has plant disease problems, particularly the chestnut blight. In response to a question regarding insects to control kudzu, Ms. McSwords replied the Division of Forestry works with private landowners to identify the kudzu and develop a control plan. There is no overall program for the eradication of kudzu.

Ms. McSwords discussed reintroduction of the American chestnut tree. In response to a question about chestnut blight, Ms. McSwords stated that there are two approaches to developing the tree stock. One can use disease resistant trees by finding naturalized disease resistant American chestnuts in Kentucky or by hybridizing the American chestnut with a more blight resistant Chinese chestnut tree. A problem has been that some blight resistant trees that are planted live a few years and then die.

In response to a question on measuring the effectiveness of the goals and strategy in the statewide assessment, Ms. McSwords replied that effectiveness is measured in conjunction with the funds available to achieve those goals. The Division has five years to create positive

outcomes, and the advantage of the assessment is in the coordination achieved with partners. This ensures that money is spent effectively. Finally, Ms. McSwords discussed "legacy forest" issues. These are areas that are purchased for easement restrictions on development. Purchases are made either through conservation easements or fee simple. The lands are set aside; however, the program depends on federal funding.

Legislative Recommendations by Kentucky Woodland Owners Association

Ms. Betty Williamson representing the Kentucky Woodland Owners Association and Dr. John Obrycki, Kentucky State Forester updated the committee on several forestland issues. Ms. Williamson discussed the importance of managing woodlands for education and outreach; protecting forests from invasive species; developing timber marketing tools; and promoting certified forests to demonstrate to the global market that Kentucky develops forests in a sustainable fashion. In response to a question about why there is need to promote certified forests, Ms. Williamson stated that the public is simply unaware of the program. It is a commonsense activity and the lack of participation stems more from ignorance than from a fear of government intrusion.

In response to a question regarding timber theft, Ms. Williamson replied that a trace only occurs if the person is a participant in a certified forest program. Otherwise, there is no requirement in Kentucky to show where the timber came from. There is a need to strengthen the "bad actor" program which is used to deter repeat offenders from being able to engage in logging operations and to develop legislation to deal with arson, incentives for woody biomass, and the creation of a timber theft unit in the Division of Forestry.

In response to a question regarding the number of Kentucky forestland owners, Ms. Williamson stated that a woodland owner is one with 10 acres or more of woodland and a certified forest is one that is certified according to guidelines developed by the American Tree Farm System. Ms. McSwords added that the certification programs are not government programs and participation is voluntary. There is a fee to participate, a sustainability plan, and an audit for compliance. Ms. Williamson continued stating there are tax breaks and

cost-share dollars for participating in the certified forest program and having a forest management plan.

Update on Emerald Ash Borer

Dr. John Obrycki discussed the program for evaluating the infestation by the emerald ash borer. Purple traps have been set across the state and will be removed to determine the number of captures. There were no new finds of infestation in Kentucky during 2010 and there is a quarantine zone established in the state. However, the insects were found in Tennessee and the Office of the State Forester is working with the federal government in determining whether a statewide quarantine is necessary. In response to a question regarding whether the infestations are urban or rural, Dr. Obrycki stated they include both areas. There are about 5 to 6 thousand traps across the state. We will release tiny wasps which are natural enemies to the beetles. In response to a question about the color of the traps and whether the wasps will become invasive species, Dr. Obrycki stated the beetles are attracted to the color purple more so than other colors and the wasps will not become an invasive species because their numbers grow and decline with the population of beetles.

Legislative Recommendation on the Bad Actor Problems in the Forest Industry

Bob Bauer, representing Kentucky Forest Industries, made a recommendation for increasing collection of fines levied on repeat bad actors in the logging industry. The process for imposing a fine is already very long. It is a four step process. The problem is that there are very few repeat offenders that have been closed down or have experienced any real financial hardship. It takes two months to go through the process, and half of the operations have not been inspected in four years. We want them to have a date certain by which to pay fines and penalties or enter into a payment plan. If they are not paid, then the operator will have the license revoked. The idea is simple.

In response to a question about use of money derived from fines and penalties, Mr. Bauer stated the money is paid into the Kentucky Forest Stewardship Incentives Fund. The fund is used to provide cost-share dollars for forest landowners who want a forest management plan. Continuing, Mr. Bauer stated that bad actor legislation will also curb

the number of trespass and timber thieves. These tend to be the same individuals. In response to a series of questions about the master logger program, Mr. Bauer commented that private landowners can cut as many board feet of timber without limit and without being required to have a master logger on site. There is a list of fines for each type of violation and the maximum is \$1,000 but the actual fine imposed will depend on the severity of the violation. The fine is set at the discretion of the cabinet.

Ms. Leah McSwords added that the fine only comes into play during the administrative hearing process and that is after many stages in the violation process. In response to questions regarding the value of certified timber and the role of inspectors, Ms. McSwords stated that certified timber is more valuable and depends on what the market wants. State inspectors do a variety of jobs beyond inspections. They also act as forest rangers.

Findings and Recommendations of the Mine Equipment Review Panel

Mr. Johnny Greene, Director of the Office of Mine Safety and Mr. Greg Goings, Deputy Chief Accident Investigator presented the findings and recommendations of the Mine Equipment Review Panel. Mr. Greene stated that the panel recommends rollover protection and falling object protection on excavators used at mine sites. Excavators are increasingly being used on slopes and in areas where there are falling objects. There were 4 roll over injuries between 2004 and 2010 and one fatality in 2007.

The reason that there has not been roll over protection required in the past is that standards were just developed in 2008 because the coal industry thought that the booms would protect the operator. However, the operator compartment is not sound enough to prevent injury or death. Mr. Greene recommended a revision to the Kentucky Administrative Regulations that would require rollover protection if necessary. In response to questions regarding operator error and whether other states have imposed similar requirements, Mr. Greene stated that Kentucky would be the first to impose rollover protection requirement and the cost would be built into the price of the new equipment coming out in 2011. Retrofits would be expensive.

After a motion and a second, the committee adjourned at 3:00 P.M.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 2nd Meeting of the 2010 Interim

August 25, 2010

Call to Order and Roll Call

The second meeting of the Interim Joint Committee on State Government was held on Wednesday, August 25, 2010, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Damon Thayer, Co-Chair, called the meeting to order, and the secretary called the roll. Representative Mike Cherry, Co-Chair, chaired the meeting jointly with Senator Thayer.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Mike Cherry, Co-Chair; Senators Walter Blevins, Jr., Julian Carroll, Jimmy Higdon, Mike Reynolds, John Schickel, and Johnny Ray Turner; Representatives Eddie Ballard, Kevin Bratcher, Dwight Butler, John "Bam" Carney, Larry Clark, Leslie Combs, James Comer, Jr., Tim Couch, Danny Ford, Derrick Graham, Mike Harmon, Melvin Henley, Charlie Hoffman, Mary Lou Marzian, Brad Montell, Lonnie Napier, Sannie Overly, Darryl Owens, Tanya Pullin, Tom Riner, Carl Rollins II, Steven Rudy, Sal Santoro, Kent Stevens, Tommy Thompson, Jim Wayne, Alecia Webb-Edgington, and Brent Yonts.

Guests: James Musser, Mercatus Center at George Mason University; Jonathan Miller and Greg Haskamp, Finance and Administration Cabinet; Laurie Dudgeon, Kentucky Administrative Office of the Courts (AOC); Representative Fred Nesler; Laura Hendrix and Greg Woosley, LRC staff.

LRC Staff: Judy Fritz, Kevin Devlin, Brad Gross, Alisha Miller, Karen Powell, Bill VanArsdall, Greg Woosley, Sean Donaldson, and Peggy Sciantarelli.

Approval of Minutes

The minutes of the July 21 meeting were approved without objection, upon motion by Representative Rudy.

Memorial Resolutions

Senator Thayer presented committee resolutions memorializing Senator Harris's wife Janet and Representative Glenn's wife Cornelia. The resolutions were unanimously adopted, upon motion by Representative Cherry, and will be transmitted to the families.

Announcements

Senator Thayer announced that the Committee's September meeting will be a joint meeting with the

Interim Joint Committee on Local Government in Georgetown at the Toyota plant.

Previous Information Requests

Senator Thayer noted that information requested by Representative Webb-Edgington at the July meeting relating to Block-50 payments in the Kentucky executive branch is not yet available but that staff expects to receive it from the Personnel Cabinet by the end of the week.

Representative Yonts noted that during the July meeting he requested that the Department of Parks provide the Committee with information on how the Department intends to achieve its short-term improvement recommendations, how the agency will save money by contracting out concessions, and whether there will be competitive bidding for food services. He said the July 23 response mailed to committee members by Tourism, Arts and Heritage Cabinet Secretary Marcheta Sparrow is too vague and general. He moved that committee staff send a letter to the agency asking for information that is more specific and detailed. The motion was adopted unanimously by voice vote. Representative Cherry said he anticipates having Secretary Sparrow and the Parks Commissioner testify at another meeting during the 2010 Interim, and Senator Thayer concurred.

Taxpayer Transparency Act

Senator Thayer said that in the 2009 session Representative Jim DeCesare introduced House Bill 13, the first legislation that would have mandated state government transparency, but it did not pass. In the 2010 session, he (Senator Thayer) filed Senate Bill 40, which passed the Senate but was not considered in the House. He said that he has been working with Representative Cherry, in anticipation of passing transparency legislation in 2011, and Representative Cherry suggested inviting representatives of all three branches of state government to speak to the Committee. He pointed out that the Open Door website operated by the executive branch was created by executive order. He stated, however, that transparency initiatives should be mandated by statute and that he will be prefiling BR 43 today for introduction in 2011. The bill is identical to Senate Bill 40 from 2010.

Representative Cherry said the three branches of government are already doing much to further transparency but that he, too, prefers that

transparency requirements be codified in statute. He said he has prefilled BR 75 for introduction in 2011. It is the same as legislation he sponsored with Representative Johnny Bell in 2010 and is similar to Senator Thayer's BR 43.

Representative Bratcher said that several of his constituents—one of whom is present today—have expressed concern that citizens do not have sufficient opportunity to speak before legislative committees, at both session and interim meetings. He asked whether it might be possible to include a provision in BR 43 to address that concern. Senator Thayer said he would be happy to work with Representative Bratcher regarding that issue.

Senator Thayer welcomed special guest speaker, Mr. James C. Musser, Director of Economic Education for the Mercatus Center at George Mason University in Arlington, Virginia. He noted that Mr. Musser is responsible for leading the federal and state outreach team to disseminate the latest scholarship to policy makers. He is also a Kentucky native who earned his juris doctorate from the University of Kentucky College of Law and is a summa cum laude graduate of Marshall University.

Mr. Musser spoke on the subject of transparency in government and how transparency can lead to greater accountability. He commended Kentucky legislators and officials for their efforts to make their state government more open and accountable. He said that transparency is a process and a tool, not an end in itself. It requires full and truthful disclosure in a useful and understandable form. It is intended to hold government more accountable and allow constituents to have greater trust in what government is doing. The benefits of transparency are obvious. It empowers the legislature to properly assess expenditures, direct funds to programs of worth and away from programs that do not work, and demonstrate that taxpayer monies are providing real benefit. True transparency—a full accounting in a format that the average voter can understand—is likely to have the effect of protecting against and preventing waste, fraud, and abuse.

Mr. Musser said the best way to achieve lasting transparency is through legislative action. Legislation to codify transparency would have at least two positive aspects that are lacking in executive actions.

First, the legislative process will allow full and open debate regarding what should be made transparent, how it should be made transparent, and how to protect confidentiality when it is rightfully needed. Second, codification means that once transparency is established, it is not easily removed. Thirty-one states have enacted transparency legislation, and some of the recent legislation has even extended to the local level. He said the Bluegrass Institute for Public Policy Solutions, based in Kentucky, would be a valuable resource with respect to transparency at the school district level.

Mr. Musser said that the Mercatus Center does not endorse or oppose legislation or candidates for office but that he and some of his colleagues have reviewed BR 43 and BR 75. He feels that the specific data elements of the legislation are particularly valuable but that the legislation might be further strengthened by requiring contact information or state-issued identification for vendors. It could also be strengthened by adding guidance on how to present information online in a workable form. The American Legislative Exchange Council's model legislation would be a helpful resource, and Jerry Brito, a colleague at the Mercatus Center, would be glad to provide guidance in setting up websites. It would also be good for the bills to require a description of each expenditure; as written, they only require a description if it is available.

Mr. Musser said he is leaving with committee staff copies of two publications that may prove useful: (1) a June 2010 article, Transparency and Performance in Government, written by colleagues Jerry Brito and Drew Perraut for the North Carolina Journal of Law and Technology; and (2) an April 2009 Mercatus on Policy publication entitled The Cost of State Online Spending-Transparency Initiatives. He said he thinks Kentucky can establish the transparency websites for a reasonable cost. Mercatus research found that the cost of transparency initiatives ranged from virtually nothing in Louisiana, which had preexisting software, to \$15,000 in Alaska and about \$100,000 in Maryland, although there was no discernible difference in quality of the end product in those three states.

Elaborating on comments from Representative Harmon, Mr. Musser emphasized that in order for data to be transparent, it has to be in a

searchable form that is user friendly.

Senator Thayer said he believes Mr. Musser has provided evidence that it is not unduly expensive to create a transparency website. He also stated that the expense would be justified because transparency has historically shown that it can save taxpayer dollars and reduce government spending. Mr. Musser concurred.

Senator Thayer asked about states that have demonstrated excellence in the area of transparency and have codified it in statute. Mr. Musser said that Virginia does a very good job—and also Arkansas and Missouri. Virginia consistently ranks at the top in having a fine business climate. He stated that transparency does not directly correlate with growth but is certainly a component of attracting business.

Mr. Musser said it is his personal observation that the vast majority of elected officials want to do the right thing; however, these are dangerous times in which people seem to feel alienated from the legislative bodies that are supposed to represent them. Clearly more transparency is needed in order to restore society's trust in the good stewardship of government officials.

Representative Cherry complimented Kentucky's executive branch Open Door website. When asked his opinion, Mr. Musser said he has looked at the portals for the executive branch and the Secretary of State's office. He thinks they have done a good job through executive action but that it can be even better, once codified. Concluding, he offered the assistance of the Mercatus Center as Kentucky pursues its transparency initiative.

Transparency in Kentucky State Government

(Representative Cherry assumed the chair for the next part of the meeting.) Guest presenters were Jonathan Miller, Finance and Administration Cabinet Secretary, and Greg Haskamp, Special Assistant to the Secretary. Secretary Miller commended the co-chairs for their leadership on the issue of transparency, and he complimented Mr. Musser for his presentation. He said transparency has been a high priority of the current administration. Secretary Miller and Mr. Haskamp then proceeded with an overview of Kentucky's Open Door transparency website.

Secretary Miller said the portal was launched January 1, 2009, us-

ing existing resources and staff with no direct cost to taxpayers. It has received very high marks from non-partisan groups that rate transparency sites, earning an "A" from U. S. Public Interest Research Groups (U.S. PIRG). In June 2010, Kentucky was given top ranking by the Center for Study of Responsive Law with respect to contract disclosure; the Center had previously rated Kentucky as one of the worst performers. The Open Door's sister site, Kentucky at Work—which provides detailed information on use of American Recovery and Reinvestment Act funds—was ranked number two behind Maryland by Good Jobs First, a national policy resource center. He said that even more important has been the response from the public. There have been more than 1.6 million hits on the Open Door site since January 2009. The site contains details of more than four million individual transactions, and that number grows annually by 1.5 million transactions. Expenditure records on the site account for more than \$103 billion. The Open Door is very proud of its high marks but is not "resting on its laurels." It will continue to be a work in progress. Public input has contributed greatly toward the site's high ranking. Input from the legislature is also welcomed and will be appreciated. Secretary Miller and Mr. Haskamp concluded their presentation with an interactive demo of the website. They pointed out that both expenditure and contract data are updated twice daily.

When Senator Thayer asked about the cost to build and maintain the website, Secretary Miller said he could not give a dollar figure because it was done with existing staff and resources, and the amount of staff time involved has not been computed. He added that Mr. Haskamp has spent much of his time on the project over the last couple of years. Senator Thayer said that today's testimony has proven his argument that the availability of quality, capable people already on staff made the transparency site affordable.

Representative Webb-Edgington asked whether the site includes details about block-50 overtime payments to state employees. She said the Committee is awaiting receipt of block-50 information from the Personnel Cabinet, after she requested it at the July meeting. She explained that she is interested in seeing whether there is a correla-

tion between block-50 payments and the mandated executive branch furloughs. Secretary Miller said the Open Door shows block-50 payments by state agency but not by individual employee.

Representative Ballard asked whether the site includes data on school board employees. Secretary Miller replied that it does not include expenditures at the local level.

Senator Thayer said that the presentation has been excellent, that the website is very good, and that it shows that Kentucky is committed to transparency. He asked Secretary Miller to let the Governor know that he (Senator Thayer) and other advocates of transparency in the General Assembly would appreciate the Governor's support of transparency legislation in the 2011 session. Secretary Miller said he would be happy to relay the message.

Laurie Dudgeon, Executive Director, Administrative Office of the Courts, spoke about transparency in the judicial branch. She said that rather than creating its own transparency website, the judicial branch opted to participate in the Open Door portal and has been "live" there since November 24, 2009. She expressed appreciation to Secretary Miller and staff in the Finance and Administration Cabinet for their assistance in loading the judicial branch information.

Ms. Dudgeon said that judicial branch expenditures from 2007 forward can be accessed via the website's "expenditures search" link. She said some minor programming changes are planned, from the standpoint of ease of finding information, because some people confuse the judicial branch with the Justice and Public Safety Cabinet. The current reference to "judicial department" in the expenditures search actually refers to the Court of Justice. She said that participating in the Open Door site has saved a tremendous amount of staff time daily in responding to open records requests relating to financing issues. Senator Thayer said that Ms. Dudgeon's last point serves as a good example of how transparency can help save taxpayer money through increased productivity. He also thanked her for doing a good job at AOC.

Senator Schickel asked whether the judicial branch information includes salaries of circuit judges. Ms. Dudgeon said not at present but that all salaries will be available as soon

as the Kentucky Human Resource Information System (KHRIS) is operable. Currently, judicial salaries are linked to the Lexington Herald and Courier Journal websites. She noted that circuit judge salaries are uniform across the state.

Laura Hendrix, General Counsel for the Legislative Research Commission, and Greg Woosley, Assistant General Counsel, presented information about transparency in the legislative branch. They also used an interactive demo of the Kentucky Legislature website as part of the presentation.

Ms. Hendrix referenced an August 20, 2010, memorandum (included in meeting folders) to the LRC from Senate President David Williams and House Speaker Gregory Stumbo advising that, pending LRC ratification, the legislative branch will establish a website that will allow public access to LRC records regarding agency expenditures, personal service contracts, and salaries. The website will be a component of the current "Kentucky Legislature" website and is expected to be operational in the fall of this year. Records displayed will be those considered available under open records statutes applicable to the legislative branch.

Ms. Hendrix gave a brief overview of information that is available on the "Kentucky Legislature" website. She said that the legislative branch has a long history of accessibility and transparency in order to keep the public informed about activities of the legislature. In 1996, the General Assembly passed a bill to require the Kentucky Constitution, Kentucky Acts, the Kentucky Revised Statutes, and administrative regulations to be available on a free and accessible website. The Legislative Record has been online since 1997. "Bill Watch," a free bill tracking service, has been online since 2000, and chamber roll call votes have been online since 2006. The website provides access to LRC publications and serves as a valuable resource for learning about the legislative process. Information about ethics provisions and campaign contributions can also be accessed through the Kentucky Legislature home page. The public can also obtain information via several toll-free phone lines.

Subcommittee Report

Senator Thayer, Co-Chair of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs, read the sub-

committee report of the Task Force's August 24 meeting. Senator Thayer's motion to adopt the report passed by unanimous voice vote.

Business concluded, and the meeting was adjourned at 2:35 p.m.

TASK FORCE ON THE PENAL CODE AND CONTROLLED SUBSTANCES ACT

Minutes of the 3rd Meeting of the 2010 Interim

August 11, 2010

Call to Order and Roll Call

The 3rd meeting of the Task Force on the Penal Code and Controlled Substances Act was held on Wednesday, August 11, 2010, at 12:00 PM, in Room 171 of the Capitol Annex. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Jensen, Co-Chair; Representative John Tilley, Co-Chair; Secretary J. Michael Brown, Tom Handy, Chief Justice John D Minton, Jr., and Hon. Tommy Turner.

Guests: Richard Jerome and Jason Newman, PEW Center for the States; Peter Ozanne, Crime and Justice Institute; Colorado Deputy Attorney General Tom Raynes; Colorado District Attorney Don Quick; and Christy May, Lexington Rescue Mission.

LRC Staff: Norman Lawson Jr., Jon Grate, Joanna Decker, Kyle Moon and Rebecca Crawley.

The meeting was called to order by Representative Tilley, the roll was called, a quorum was present, and the minutes were approved by voice vote.

Presentation on the Prison Population Projection

The first speaker was Jason Newman of the PEW Center on the States who spoke on the Preliminary Kentucky Prison Population Projections prepared by James Austin, Wendy Naro, and Roger Ocker of the JFA Institute. He described the projections as being influenced by external factors such as offenders coming into the system and internal factors such as who goes to prison and how long they stay. Factors include demographics (the size of the at risk population--males 15-25), crime, arrest, court processing, and correctional policies and the report is disaggregated by gender, and various offense groups such as property, drug, and violent offenses and the return of parole violators to prison.

Some of the information from the report included Kentucky's

crime rate is lower than the national average, has remained flat for several years with a recent increase in property crime and rape; Kentucky's incarceration rate is higher than the national average; Kentucky's rate of incarceration of females is the 6th highest in the nation; Kentucky courts send offenders to prison at a higher rate than the national average with 59.63 percent for Kentucky against a national average of 41 percent; admissions doubled between 1999 and 2010; from 2000 to 2008 there was a 45 percent growth in prison population; and there has been a population decline from 2008 to the present due to a higher parole rate.

Mr. Newman observed that prison admissions are difficult to predict, the current estimates include a 1,000 inmate increase to 21,854 inmates in the next 10 years if current trends continue and an increase to 27,209 inmates if prior trends are reinstated. Mr. Handy asked several questions about recent South Carolina statutory changes, and Mr. Richard Jerome of the PEW Center on the States responded.

Controlled Substances Act Legislation in Colorado

The next speakers were Colorado Deputy Attorney General, Criminal Justice Section, Tom Raynes and Colorado District Attorney, 17th Judicial District, Don Quick. Mr. Raynes and Mr. Quick alternated presenting various points of recent controlled substances legislation in Colorado and the process that was used to enact the legislation.

Several years ago Colorado was faced with declining revenues and a prison population which was doubling every nine years, recidivism was high, and drug abuse and drug related offenses were a major problem. In 2010, Colorado spent more on corrections than it did on higher education. In 2008, the legislature created the Colorado Commission on Criminal and Juvenile Justice (CCCJJ) consisting of 25 members representing major stakeholders which was supplemented by various work groups to assist in the creation of various proposals to be presented to the commission. The commission's mission is to enhance public safety, to ensure justice, and ensure the cost-effective use of public resources. The commission used an evidence-based approach to the new legislation.

HB 1352 created a new crime of simple possession, increased the

threshold amounts on controlled substances for personal possession, eliminated aggravators for second and subsequent offenses, increased thresholds on marijuana offenses, increased the penalty for dealing to minors, increased the penalty for possession of date rape drugs and directed the immediate savings of \$1.4 million to treatment programs; HB 1081 expanded the offense of money laundering from drug activity to all criminal activity; HB 1347 created minimum mandatory sentences for multiple DUI offenses and increased potential jail time for probation violations as an intermediate compliance based sanction; HB 1338 provided eligibility for probation for offenders with two or more prior felonies; HB 1373 created sentencing changes for the crime of escape and defining inmate status; and HB 1374 changed parole by clarifying eligibility, increasing ability to get earned time on lower level felonies and required use of use of intermediate sanctions if there is no threat to public safety.

Two task forces were established, a sentencing policy task force and a drug policy task force. Factors which made the task force successful included working groups were appointed with an eye toward reasonable but strong personalities on all sides of the various issues; chair positions were carefully assigned; clear expectations of participation, results, and concrete proposals were set; and frequent and intense working group meetings were held. Battles over ideas were vigorously fought at the working group level first; more issues were argued and resolved in the task force meetings one by one as presented; by the time ideas are presented to the CCCJJ for formal vote there is significant buy in; and proposals recommended by the CCCJJ move toward bill paper with strong support and a high level of credibility.

The bills passed easily in the legislature. The end result was to include juvenile programs, expand community corrections, and programs for the mentally ill as well as drug offenders. Senator Jensen asked why several proposals were used rather than one proposal to which the reply was that it permitted focusing on specific topics in each bill.

Task Force Discussion of the Controlled Substances Act

The next speaker was Mr. Peter Ozanne of the Crime and Justice Institute who spoke on the process be-

ing used to review and make recommendations for change to Kentucky's Controlled Substances Act with goals of reducing crime and risks to public safety, increasing the cost-effectiveness of the state's corrections system, and freeing-up resources to reinvest in evidence-based practices.

Some of the questions to be answered include whether the right drug offenders are in prison, considering risks and needs; and whether the penalties are consistent with research on drug abuse and addiction (e.g. the "disease of relapse").

Mr. Ozanne presented Kentucky statistics on Drug Offense Admissions in FY 2010 and Drug Offenders in Prison as of June 30, 2010. He discussed nine options for consideration in Kentucky, including Option 1. Review the classification of drug offenses under the Controlled Substances Act (Chapter 218A); Option 2. Establish specific quantities for drugs under KRS Chapter 218A, including lower penalties for possession of small amounts and increased penalties for possession of larger amounts; Option 3. Refine the statutory definition of "trafficking" for commercial trafficking by dealers as opposed to street-level "peddling" by users; Option 4. Reclassify offenses involving less dangerous drugs, trace amounts of drugs and drug paraphernalia; Option 5. Refocus the scope of "drug free zones" so that it is aimed at sales to minors; Option 6. Reconsider sentencing enhancements for second and subsequent offenses; Option 7. Limit multiple offenses arising out of the same criminal episode; Option 8. Review enhancement for possession of a weapon during a drug offense; and Option 9. Account for fiscal impacts of drug laws.

The task force recessed at 1:50 PM to attend a press conference announcing PEW Public Safety Project assistance to the Task Force.

The meeting reconvened in the Supreme Court Conference Room following the press conference. The members discussed having work groups consisting of jailers, judges, prosecutors, law enforcement, treatment programs and other stakeholders to assist the task force in its deliberations. Chief Justice Minton recommended considering Controlled Substances Act changes first. Various other members suggested topics to be considered and there was a general consensus not to attempt to amend the entire Penal Code.

The meeting adjourned at 4:00

p.m.

TASK FORCE ON MEDICAID COST CONTAINMENT

Minutes of the 3rd Meeting of the 2010 Interim

August 17, 2010

Call to Order and Roll Call

The 3rd meeting of the Task Force on Medicaid Cost Containment was held on Tuesday, August 17, 2010, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Katie Kratz Stine, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Katie Kratz Stine, Co-Chair; Representative Jimmie Lee, Co-Chair; Senators Tom Buford, Julie Denton, Denise Harper Angel, Bob Leeper, and David L. Williams; Representatives Tom Burch, Rick Rand, Greg Stumbo, David Watkins, and Jill York.

Guests: Toni Miles and Ellen Kershaw for the Alzheimer's Association; Tinisha Rawlins for AARP; Eric Clark for the Kentucky Association of Health Care Facilities; Charlie Mayer for Signature; Murray Wood for the Cabinet for Health and Family Services; Jodi Mitchell for Kentucky Voices for Health; Nancy Galvagni for the Kentucky Hospital Association; Andrea Plummer for Kentucky Youth Advocates; Jeff Presser and Mark Carter for Dean Dorton Ford; Seth Hall for First Sources; Mike Porter for the Kentucky Dental Association; Stephanie Aldridge for the Kentucky School Boards Association; Robert Castagna for the Catholic Conference of Kentucky; Charles George for the Kentucky Chamber; Donovan Fornwalt for the Council on Developmental Disabilities; and Walter Gose for Sanofi-Aventis.

LRC Staff: Miriam Fordham, Pam Thomas, Cindy Murray, Mike Clark, DeeAnn Mansfield, Frank Willey, Lashae Kittinger, and Cindy Smith.

Approval of Minutes

The minutes of the July 19, 2010 and July 20, 2010 meetings were approved without objection.

Overview of Medicaid Cost Containment Strategies

Donna Folkemer, Group Director, Forum for State Health Policy Leadership Program, National Conference of State Legislatures, Washington, D.C., presented information on Medicaid cost containment strategies. She said the Patient Protection and Affordable Care Act (PPACA) expands and modifies Medicaid in 2014. Eligibility is revamped, and in most cases, is based on income, not income and

assets. It also adds new mandatory categories of eligibles. The temporary maintenance of effort and eligibility portion prohibits more restrictive eligibility changes and expires in 2014 when the health care exchanges become effective. There are implications for states. There is a lot of work to do that requires time and money, and both are in short supply in most states. There is also a lot of attention to quality, prevention, and delivery system changes in PPACA. These provide some opportunities. Currently, states are grappling with historically difficult budget conditions due to the recession. Monthly Medicaid enrollment growth has been accelerating in each six-month period since the recession began. State revenues are unlikely to return to pre-recession levels for several years. States are exploring new strategies for improving care and containing costs. For this presentation, Ms. Folkemer reviewed analytical work done by Medicaid study groups, committees, or analysts in several different states during the last five years, identified common themes in state approaches, and identified examples of recommendations on issues. Some basic findings based on state analyses include: the recommendations were derived from data and trend analysis from the particular state; many approaches to institute cost-effective care and the approaches are multi-year in nature; different issue areas required different approaches; there are no magic bullets; and an adequate information system is essential to track change. Themes across states include: eliminating inefficiencies to reduce costs and improve quality; tying pay to performance; and creating more unity in Medicaid budgeting and management. State recommendations include: more care management to promote appropriate use of services; better pharmacy purchasers and assurance of access; new approaches to setting rates and to assure appropriate use of Medicaid funds; moving toward a broader mix of community choices; and promoting stronger preventive efforts.

In response to a question by Senator Stine, Ms. Folkemer said she did not know the number of states using a KASPER type system for drug monitoring, but she could get that information for the committee. President Williams noted that there is an interstate compact effort for prescription drug monitoring for states.

In response to a question by

Senator Leeper, Ms. Folkemer said that Medicaid agencies will be required to increase primary care rates to promote greater use of primary care providers. There are many demonstration projects that have to do with providing incentives to providers for groups to organize in different ways.

In response to a question by Senator Leeper, Ms. Folkemer said there is a major push for providers to organize themselves and agree to take on responsibility of patient care in clinical intervention. They received bundled payment for that care. No one provider can do everything, so the providers join together and provide care and get bundled pay for all the provided services.

In response to a question by Senator Leeper, Ms. Folkemer said there are only maintenance of effort restrictions for certain populations.

In response to a question by Senator Stine, Ms. Folkemer said medical homes are focused on primary care, where providers can serve as a "home" for individuals; accessible care organizations are bigger groups of providers focused across a whole range of services and gatekeepers have a more narrow concept.

In response to a question by Senator Stine, Ms. Folkemer said that all states have school health centers of some sort. Some states classify them as providers and they can be set up as part of that state's network.

In response to a question by Senator Denton, Ms. Folkemer said she would have to do some research to find out if there is any money for marketing and outreach, and if there are any restrictions. She noted that it is mandatory for states to simplify the eligibility process.

In response to a question by Senator Denton, Ms. Folkemer said that federal law does not legislate on most aspects of Medicaid. It is traditionally the responsibility of most states, with the major area of focus in eligibility. Day-to-day management activities are not covered by federal law.

In response to a question by Senator Denton, Ms. Folkemer said she did not know if co-pays and incentives are addressed in the new health care law.

In response to a question by Senator Denton, Ms. Folkemer said in order to cut down on emergency room usage, it is a push of medical homes to have additional options for people to use other than emer-

gency rooms. She noted that many frequent users of emergency rooms have chronic conditions that are not being managed properly.

In response to questions by Speaker Stumbo, Ms. Folkemer said all but two states have a third party management system form of managed care. The structure of managed care from state-to-state is very different. States are required to present certain information to the federal government. There could not be a study done for all states because the state systems are so different, but there could be a study done between states that have similar systems of managed care.

In response to questions by Representative Burch, Ms. Folkemer said states' roles are changing in order to provide broader health care coverage. If the recession continues, it will be tough for states to continue to meet the needs.

In response to a question by Representative York, Ms. Folkemer said that all states think about pay-for-performance differently. Many states link payment to known quality measures. Many states use national recommendations for clinical standards.

In response to questions by President Williams, Ms. Folkemer said that everyone that falls below 133 percent of the federal poverty level will be mandatorily covered under the new health care act. There will be directives to employers to maintain certain coverages. In 2014, mandatory eligibles will be covered at 100 percent for six years. As far as exchanges, very little has been decided about that. The new law calls for exchanges and states would operate those. There is an assumption that individuals under 133 percent of the federal poverty level will be covered under the exchanges.

In response to a question by Representative Lee, Ms. Folkemer said that some regulations have been written on the new health care act, but no regulations on exchanges have been written. There are still a whole range of decisions to be made at the state level. More information will be coming out over time and will be sent to states when it becomes available.

In response to a question by Senator Harper Angel, Ms. Folkemer said that Money Follows the Person has been expanded, and there has been increased match rates for some states. There is a clear objective to

encourage states to strengthen their community portion of their long-term-care delivery system.

In response to a question by Senator Harper Angel, Ms. Folkemer said there is a list of all incentives for states that show regulatory match rates and the application time line on the NCSL website.

The meeting was adjourned at 12:15 p.m.

JOINT MEETING TASK FORCE ON MEDICAID COST CONTAINMENT MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

August 31, 2010

Call to Order and Roll Call

A joint meeting of the Task Force on Medicaid Cost Containment and the Medicaid Oversight and Advisory Committee was held on Tuesday, August 31, 2010, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Jimmie Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Katie Kratz Stine, Co-Chair; Representative Jimmie Lee, Co-Chair; Senators Walter Blevins, Tom Buford, Julie Denton, Denise Harper Angel, Bob Leeper, Dan Seum, and David L. Williams; Representatives Tom Burch, Bob DeWeese, Jim Glenn, Joni Jenkins, Rick Rand, Greg Stumbo, David Watkins, and Jill York.

Guests: Eric Clark for the Kentucky Association of Health Care Facilities; Bryce McGowan for Kentuckians for Nursing Home Reform; Ben Waide, citizen; Ellen Kershaw and Toni Miles for the Alzheimer's Association; Dee Werline for the Bluegrass Mental Health/Mental Retardation Board; Dave Croft for Bristol-Myers Squibb; Kasia Harshaw for Lilly; Amy Watts for the Foundation for a Health Kentucky; Sarah Nicholson and Mike Rust for the Kentucky Hospital Association; Jim Kimbrough for AARP; Sheila Schuster for the Kentucky Mental Health Coalition; Jan Gould for the Kentucky Retail Federation; Jeff Presser for Dean Dorton Ford; Walter Gosa for S. Anof-Aventis; and Donovan Fornwalt for the Council on Developmental Disabilities.

LRC Staff: Miriam Fordham, Pam Thomas, Cindy Murray, Mike Clark, DeeAnn Mansfield, Frank Willey, Lashae Kittinger, and Cindy Smith.

Approval of Minutes

The minutes of the August 17,

2010 meeting of the Medicaid Cost Containment Task Force were approved without objection.

Long Term Care Issues

Jim Kimbrough of AARP gave an overview of long-term care issues. He said that in the previous administration he worked with Medicaid Services in redesigning how services and benefits for Kentucky Medicaid recipients should be delivered. They developed an extensive new bundling of benefits aimed to different populations of Kentucky Medicaid recipients. Just as they finished this 1115 waiver proposal, Congress passed the Deficit Reduction Act and it was determined that no 1115 waivers would be approved. When looking at what services and benefits can be provided through Medicaid, there are three separate sets available. The first is mandatory services which must be provided to all Medicaid participants, unless specifically waived through a policy waiver. The second is optional services, which are services that a state may elect to provide in its Medicaid plan. The third is waiver services, where states may elect to target services to a specific population or condition and tailor services to meet the needs of that population or condition. Kentucky has seven waiver programs each of which has a unique set of defined services for the individuals served under each waiver. Elderly and disabled individuals account for about 38 percent of Medicaid participants, and 67 percent of the Medicaid expenditures in Kentucky. Surveys have shown that nearly all individuals want to remain in their own homes and local communities. It costs Medicaid significantly less to provide services and supports in a person's home or community setting than it does in an institution. In 2008, the per capita expenditure for nursing home services was \$188.95, while Medicaid Home and Community Based Waivers for the elderly and disabled was \$17.01. In 2007, Kentucky expended an average of \$9,303 for each of its elderly Medicaid participants and \$9,456 for each of its disabled participants. For non-aged and disabled adults, the average was \$3,831 while children were \$2,399. The average for all participants was \$5,244, close to the national average of \$5,163. In 1990, a physician-educator at the University of Michigan's Medical School, Dr. Donabedian, stated that a quality health care system had seven pillars: efficacy; effectiveness; efficiency; optimality;

acceptability; legitimacy; and equity. Mr. Kimbrough suggested that in deliberations about Kentucky's Medicaid program's cost, these factors should be used as benchmarks to measure improvements in how this part of the publicly financed health care program functions. They believe that Kentucky can serve more people, with better success, in a more cost-effective manner.

Mental Health Issues

Sheila Schuster, Ph.D., Executive Director, Kentucky Mental Health Coalition, gave an overview of mental health issues. She reported that there are three very costly issues that affect those with mental illness: premature death; repeated psychiatric hospitalizations; and babies born with addiction. An investment of new or additional money results in cost savings in the long run. People with severe mental illness have much poorer physical health than the general population. By 2000, people with severe mental illness in the United States were dying at twice the rate of, and approximately 25 years earlier than, the general population. She encouraged the establishment of a non-psychiatrist physician rate in the community mental health centers, and the re-evaluation of the prohibition against paying for two Medicaid services delivered in the same day. A model program for recovery for individuals with severe mental illness is Bridgehaven Mental Health Services. By preventing almost 20,000 days of hospitalizations, they have saved the state at least \$17 million dollars over a nine year period. In addition to cost savings, Bridgehaven members experience recovery. A model for treating substance abuse in pregnant women is Independence House. They received a federal grant for \$400,000 per year for a three year period and have been able to offer services to women beyond the 90 day post-partum period when Medicaid stops paying for services. In the first year, Independence House has had 35 "clean" babies born into the program. The estimate is that an addicted baby costs approximately \$500,000 in a lifetime. Therefore, \$400,000 has saved approximately \$17.5 million.

Discussion of Health Care Reform

Neville Wise, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services gave an overview of the provisions in the Public Protection

and Affordable Care Act (PPACA) regarding Medicaid and the Children's Health Insurance Program (CHIP). Commissioner Wise said that the maintenance of eligibility requires states to maintain current income eligibility levels in place on the dates of enactment for children in Medicaid and CHIP through September 30, 2019. The PPACA requires states to maintain Medicaid eligibility levels for adults in place on the date of enactment until the Secretary of Health and Human Services determines that the state exchanges are fully operational. States are exempted from the maintenance of effort requirement for non-disabled adults with incomes above 133 percent of the federal poverty level starting in January, 2011 if the state certifies that it is experiencing a budget deficit or will in the following year. The income eligibility standard section establishes minimum eligibility level at 133 percent of the federal poverty level effective January 1, 2014. It adds three new mandatory eligibility categories and allows states to cover these populations at 133 percent of the federal poverty level effective April 1, 2010. The health care reform law permits states the option to create a basic health plan for uninsured individuals with income between 133 and 200 percent of the federal poverty level who would otherwise be eligible to receive premium subsidies in the exchange.

The health care reform bill provides full federal funding for individuals newly eligible for Medicaid. Funding for CHIP is extended through 2015 and requires states to maintain income eligibility levels in place on the date of enactment. It provides for a 23 percentage point increase in the CHIP match rate up to a cap of 100 percent and creates a new option for states to provide CHIP coverage to children of state employees. The PPACA allows the state Medicaid and CHIP agency to enter into an agreement with the exchanges to determine eligibility for premium subsidies through the exchange. In regard to presumptive eligibility, hospitals participating in Medicaid are permitted to make presumptive eligibility determinations allows hospitals and other providers currently eligible are allowed to determine presumptive eligibility for all Medicaid eligible populations. Medicaid payments to primary care physicians for providing primary care services are required to be no less than 100 percent of Medi-

care payment rates in 2013 and 2014. In regard to employer sponsored insurance (ESI), the PPACA requires states to offer premium assistance and wrap-around benefits to Medicaid beneficiaries who are offered ESI if it is cost-effective. Medicaid and CHIP eligible children will be allowed to receive hospice services concurrent with other treatment. And, the law provides for a state option to provide Medicaid coverage for family planning services through a State Plan Amendment to certain low-income individuals up to the highest level of eligibility for pregnant women.

Commissioner Wise discussed the health care reform provisions relating to long-term care. The PPACA establishes the Community First Choice Option in Medicaid to allow states to provide community-based attendant supports and services through a state plan amendment to individuals with incomes up to 150% FPL with disabilities who require an institutional level of care. The law provides states with an enhanced federal matching rate of an additional six percentage points for reimbursable expenses in the program. States are required to establish a system for the removal of barriers to providing home and community based waiver services. The Money Follows the Person Rebalancing Demonstration program is extended through 2016 and requires that individuals reside in a nursing home for not less than 90 consecutive days.

The provisions related to drug rebates, quality measures, and preventative care were also discussed. The law increases the Medicaid drug rebate percentage for brand name drugs from 15.1 percent to 23.1 percent. Aggregate allotments for disproportionate share hospital (DSH) payments are reduced and the Secretary of HHS is required to develop a methodology to distribute the DSH reductions. It establishes the Medicaid Quality Measurement Program for the development and advancement of quality measures for adults in Medicaid and sets deadlines for development of measures, standardization of reporting formats, and requires a report to Congress in January 2014 and then every 3 years. States would receive grant funding to support the development and reporting of quality measures. Under the law, states are allowed the option to provide coordinated care through a health home for individuals with chronic conditions. States will be provided with

a 1 percent increase in the FMAP for preventive services recommended by the US Preventive Services Task Force and recommended immunization for adults if offered with no cost sharing. In regard to incentives for prevention of chronic diseases in Medicaid, PPACA authorizes \$100 million in grant funding for states to establish programs for Medicaid beneficiaries to cease tobacco use, control weight, lower cholesterol, lower blood pressure and avoid or improve management of diabetes. Grants are for 3 years.

The law requires the Secretary of HHS to establish a nationwide program for national and state background checks on direct patient access employees of certain long-term care facilities or providers and to provide federal matching funds to states to conduct these activities. It also requires the Secretary to establish procedures for screening providers and suppliers, with the level of screening based on the risk of fraud, waste and abuse by provider type.

In regard to enhanced program integrity provisions, PPACA requires CMS to include Medicare, Medicaid, CHIP, VA, DOD, SSA and IHS in the integrated Data Repository (IDR) and requires the Secretary of HHS to enter into data-sharing agreements with these agencies to identify waste, fraud and abuse. The law allows the Department of Justice to access the IDR to conduct law enforcement activities. It requires all Medicaid, Medicare and CHIP providers to include their National Provider Identifier on enrollment applications and claims. Civil monetary penalties are established for individuals who provide false information on applications or contracts to participate in a federal health care program or know of an overpayment and do not return it. In regard to the expansion of the Recovery Audit Contractor Program, the law requires states, by December 31, 2010, to establish a program to contract with one or more recovery audit contractors to identify Medicaid underpayments and overpayments and recoup overpayments.

Commissioner Wise discussed other provision related to fraud and abuse. The law requires states to submit data elements from their claims processing systems that the Secretary of HHS determines are needed for program integrity, program oversight, and administration. Medicaid managed care contracts must require the contractor to maintain sufficient

patient encounter data to identify the physician who serves a patient (as under current law) at a frequency and level of detail to be specified by the Secretary of HHS.

The law requires a state Medicaid plan to prohibit the state from making any payments for items or services under a Medicaid state plan or a waiver to any financial institution or entity located outside of the United States. In regard to overpayments, it extends the period for states to repay overpayments to one year when a final determination of the amount of the overpayment has not been made due to an ongoing judicial or administrative process. When overpayments due to fraud are pending, state repayments of the federal portion would not be due until 30 days after the date of the final judgment.

The law also established a number of demonstration projects including an emergency psychiatric demonstration project to provide emergency medical conditions by Institutions for Mental Disease for individuals 21 to 65 who require stabilization in these settings as required by the Emergency Medical Treatment and Active Labor Act. Other provisions of the law include: waiver authority for dual eligible demonstrations; federal coverage and payment coordination for dual eligibles; payment adjustments for health acquired conditions; comprehensive tobacco cessation for pregnant women in Medicaid; a Medicaid global payment system demonstration project; pediatric accountable care organization demonstration project; face to face encounter with patient required before physicians may certify eligibility for home health services or DME under Medicare; termination of provider participation under Medicaid if terminated under Medicare or other state plans; mandatory state use of national correct coding initiative; and a comprehensive approach to long-term care services and supports.

In response to a question by Representative Lee, Commissioner Wise said it has been a very slow process getting the regulations, and he doesn't know when they will be available.

In response to a question by Representative Lee, Commissioner Wise said there will be two different Medicaid groups maintained, and the benefit packages will be different as well.

In response to a question by Senator Buford, Commissioner Wise

said the state will have to pick up ten percent eventually, of the 150,000 to 200,000 new eligibles, but he is not sure of the dollar amount.

In response to questions by Senator Buford, Commissioner Wise said that even today hospitals face the issue that DSH payments are currently exceeded. In regard to presumptive eligibility, the idea is that the care the recipients get that day would be covered under Medicaid. It is a way to get them into the system earlier. In regard to employer sponsored insurance, participants are made aware that Medicaid would pay the premium and wrap around services when it is cost-effective for the state to do that.

In response to a question by Senator Stine, Commissioner Wise said that even if an individual is determined to be ineligible, there are still 60 days of coverage and the provider can keep 60 days of funds.

In response to a question by Representative Lee, Commissioner Wise said he has not found a triage provision in the bill yet.

Representative Lee noted that it is important to understand how all the provisions of this health care bill will be paid for. He requested a breakdown of where the money comes from.

In response to questions by Senator Williams, Commissioner Wise said the Cabinet has identified \$87.5 million annually in savings and it could be more than that after looking further at the budget. The deficit for 2011 could be between \$200 and \$300 million. The shortage in the stimulus money is causing a greater deficit than anticipated. The deficit for 2012 could be slightly better. The Cabinet is searching for efficiencies to handle the deficit situation.

Senator Williams requested that at one of the next meetings the Cabinet presents their strategy for reductions to the committee. Representative Lee pointed out that information is something we need in order to make final recommendations. With the next meeting being so close, the committee may not get exacts from the Cabinet. But somewhere in the near future, the committee does need to know what direction those reductions will take in order for the members to consider recommendations that need to be made.

In response to a question by Representative Stumbo, Commissioner Wise said that an increase to 200 percent of the federal poverty

level would not cover all individuals without insurance, but it would cover a majority of them.

In response to a question by Representative Stumbo, Commissioner Wise said mechanisms to control quality of care include looking at claims data and identifying claims outcomes, and looking for good data that compares to benchmarks from other agencies.

Representative Lee pointed out that the number of uninsured in Kentucky is between 600,000 and 700,000 and with the new health care reform law, additional eligibles could total another 275,000 to 350,000.

In response to a question by Senator Stine, Commissioner Wise said that packages for providers have to match the plans offered under the exchange. He does think that podiatrists, optometrists and chiropractors will be covered, but he will check to be sure.

Sharon Clark, Commissioner, Department of Insurance (DOI) gave an overview of health insurance reform and state implementation. She discussed the decision timeline of the high risk pool. She said on April 2, 2010 HHS asked states to make decisions regarding operation of a temporary high risk pool by April 30. From April 9 to April 23, 2010, DOI provided the following information to the Governor: a white paper outlining the pros and cons of each option outlined in the request letter; a comparison of the requirements for Kentucky Access, Kentucky's current high risk pool; and the requirements for the temporary high risk pool. On April 29, 2010, Kentucky expressed its interest to HHS in operating a high risk pool, but identified areas needing additional information and assurances. On May 17, 2010, DOI recommended to Governor Beshear that Kentucky opt for the operation of the temporary high risk pool by the federal government.

Grandfathered plans are defined as a health plan existing on March 23, 2010. Changes to grandfathered plans will result in a loss of grandfathered status. Grandfathered plans can: raise premiums to reasonably keep pace with health care costs; make some changes in the benefits; increase deductibles and other out-of-pocket costs within limits; and continue to enroll new employees and new family members. There are immediate market reforms that apply to all plans and some that apply to new plans, not grandfathered

plans. Kentucky has many of those provisions on the books now. There is a lot of frustration because there are major issues pending guidance from the federal Health and Human Services. The rate review process requires HHS, in conjunction with the states, to develop a process for annual review of unreasonable premium increases for health insurance coverage. Insurers must issue a refund to enrollees if the percentage of premium expended for medical claims and health care quality improvement is less than 85 percent in the large group market or less than 80 percent in the small group or individual market.

Commissioner Clark also discussed the grants available to states related to health care reform. Kentucky was awarded a \$1 million grant on August 16. The acceptance letter is due by September 13. Kentucky proposed the following for use of the grant funds: increase the categories of data required to be filed by large groups and expand DOI review of large group rate filings to include analysis of rate factors; increase the amount of data to be provided in a rate filing and modify the review process to include consideration of plan years, underwriting issues and policy forms; develop a publication to explain the rate review process, including the information submitted by insurers and reviewed by the DOI, in plain language, to give notice of specific rate increases and decreases; and conduct surveys and hold open meetings for consumers in order to determine what information would be useful for them to make well-informed health insurance decisions. There is \$30 million in grants to states to establish and operate offices of health insurance consumer assistance or health insurance ombudsman programs. The department is currently working on the grant submission. There is \$1 million in grant funds available to states for planning and activities related to the establishment of an exchange. DOI and the Cabinet for Health and Family Services are working collaboratively on the grant application. An exchange is an organized market place for the purchase of health insurance which has general requirements. Kentucky can have multiple exchanges.

Representative Lee pointed out that Kentucky needs to have some type of legislation in the 2011 Session to deal with exchanges. Commissioner Clark said that she agrees

because the exchanges have to be operational by January 1, 2014, but the capability to operate the exchange has to be demonstrated by January 1, 2013.

Representative Lee noted that the Task Force received a letter from Senator Denton and Senator Harper Angel relative to colon cancer, and he asked that staff forward that letter to the Cabinet and asked that the Cabinet supply the information to the committee.

The meeting was adjourned at 12:15 p.m.

TASK FORCE ON MEDICAID COST CONTAINMENT

Minutes of the 5th Meeting of the 2010 Interim

September 7, 2010

Call to Order and Roll Call

The 5th meeting of the Task Force on Medicaid Cost Containment was held on Tuesday, September 7, 2010, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Katie Kratz Stine, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Katie Kratz Stine, Co-Chair; Representative Jimmie Lee, Co-Chair; Senators Julie Denton, Denise Harper Angel, Bob Leeper, and David L. Williams; Representatives Tom Burch, Rick Rand, and David Watkins.

Guests: Eric Clark for the Kentucky Association of Health Care Facilities; Jeff Presser for Dean Dorton Ford; Ellen Kershaw for the Alzheimer's Association of Kentucky; Jodi Mitchell for Kentucky Voices for Health; Jan Gould for the Kentucky Retail Federation; and Jim Kimbrough for AARP.

LRC Staff: Miriam Fordham, Pam Thomas, Mike Clark, DeeAnn Mansfield, Frank Willey, Lashae Kittinger, and Cindy Smith.

Approval of Minutes

There was a motion by Representative Lee to amend the minutes from the last meeting. After that amendment, there was a motion by Representative Lee, seconded by Senator Harper Angel, to approve the minutes as amended.

Discussion of Current State Medicaid Cost Containment Statutory and Regulatory Framework

Pam Thomas, Committee Staff Administrator, Legislative Research Commission, provided an overview of the existing statutory and regulatory framework for achieving cost con-

tainment or expenditure reduction in the Medicaid program. She identified various provisions of the Kentucky Revised Statutes (KRS) requiring or authorizing actions intended to contain costs in the Medicaid program.

In response to a question by Representative Burch, Ms. Thomas said that she is not the correct person to offer her opinion on what needs to be changed in the Medicaid program to make it function properly. She noted that there are many people who will testify before the committee who are more qualified to answer those types of questions. Senator Stine noted that at a future meeting the members would hear testimony about the Program Review report mentioned in Ms. Thomas' overview which may be helpful in answering those questions.

Discussion of Prescription Benefit Management

Brenda Motheral, MBA, Ph.D., Associate Professor, College of Pharmacy, University of Kentucky, discussed prescription benefit management. She reported that Kentucky leads the nation in prescription drug use overall, which is driven by many factors, including the lack of efficiencies in the system, obesity rates, and diabetes rates. She discussed the evolution of what is happening with prescription drugs and said there is a shift to a more consumer-oriented market. Important factors to consider include: establishing a transparent contract with the vendor; ensuring that programs on paper are actually in place; and providing evidence to show that the program is saving money. Dr. Motheral discussed the drivers of prescription drug trends, which include price, utilization and mix.

Dr. Motheral discussed relationships between legislation requiring patient consent for generic substitution and generic fill rates. Her research shows that there is a projected savings of \$100 million dollars if states with patient consent policies would remove the need for patient consent for generic substitution.

In summary, Dr. Motheral said that the waste in prescription drug spending is significant across the United States and in Kentucky. The pharmacy benefit is very complex, making transparency, evidence, and timeliness critical. Payers can lower costs without compromising quality. Cost management challenges will be even greater in the future given specialty pipeline and other trends.

In response to a question by President Williams, Dr. Motheral said that research shows that attitudes have changed about the use of generic drugs. Many individuals think that generic drugs are as advantageous as name brand drugs.

In response to questions by President Williams, Dr. Motheral said that pharmacies typically do not waive co-pays. She defined the Therapeutic Interchange Program as a program that allows for drugs passed to be auto substituted through the state program.

In response to a question by Senator Stine, Dr. Motheral said the national generic fill rate is between 80 percent and 85 percent, and Kentucky's should be similar.

In response to a question by Representative Lee, Dr. Motheral said her comparisons are not necessarily based on facts researched in Kentucky Medicaid, but common tactics reflect what Kentucky is doing and what is common in the marketplace. Dr. Motheral said she researched what is publicly available to get her findings.

In response to a question by Senator Stine, Dr. Motheral said there are many areas where compliance is a problem. Her findings show short-term, hard dollar savings that are cost effective.

In response to a question by President Williams, Dr. Motheral said that health educators have a lot of programs that can get long-term clinical benefits.

In response to a question by President Williams, Dr. Motheral said that including some diagnoses in her findings would have been more complex. She wanted to identify areas with compliance that led to short-term savings. President Williams pointed out that cost savings is not only short-term, but also medium and long-term.

In response to a question by President Williams, Dr. Motheral said that in Kentucky, there are specific drugs where the state addresses off-label use. There must be a specific diagnosis before the prescription will be paid for.

In response to a question by President Williams, Dr. Motheral said she did not have the figures with her for the exact amount spent on off-label drugs in Kentucky, but she could get that information to the committee.

In response to a question by

Senator Stine, Dr. Motheral said the \$1 billion savings in costs management was figured by taking the total use per capita, where the fill rate is, where it could be, and the difference in cost between the brand name and generic drug.

In response to a question by Representative Lee, Dr. Motheral said that every employer will cover some off label drug use, and some are not worth addressing through prior authorization. Off label drug use moves so quickly that it is hard for employees to catch up.

Representative Lee requested that by the next meeting the Cabinet provides a dollar number and the number of prescriptions changed by purchasers to a name brand.

Representative Lee made a recommendation that immediately in the 2011 Session there is legislation relating to the Medicaid program that a generic prescription cannot be changed to a name brand when the generic equivalent would work.

Discussion of Managed Care

Shannon R. Turner, JD, Executive Vice President, University Health Care, Inc., and Larry N. Cook, MD, Chief Executive Officer and Chairman of the Board for University Health Care, Inc./Executive Vice President for Health Affairs, University of Louisville presented an overview of Medicaid managed care. Dr. Cook noted that the Passport health plan has been ranked in the Top 25 Medicaid health plans in America by US News and World Report for the past five years. Passport serves not only Medicaid recipients, but also Medicare recipients with their Passport Advantage HMO plan. Passport is a provider sponsored HMO with over 165,000 members in 16 counties and an extensive provider network. Passport Health Plan operates under an 1115 waiver from the federal government that must be renewed every three years and must remain budget neutral. Passport offers an array of services and is committed to covering Kentucky's children. Dr. Cook reported that the number of children with Passport has increased, and EPSDT rates continue to remain among the highest.

Regarding the plan's efficiency, Dr. Cook reported that Passport Health Plan provider payments have consistently equaled or exceeded those of Kentucky's Medicaid. Ninety-three cents out of every dollar goes to providers. In addition, Passport stands proud of its primary care

physician pay for performance model. Over the years Passport has established many programs to help enrollees, including: a childhood obesity program; a cultural and linguistic services program; an asthma program; a research and development program; and a smoking cessation program.

Next, Shannon Turner discussed efforts to combat waste, fraud and abuse. Passport is committed to eliminating member and provider fraud in the payment system. The company's total recovery efforts yielded \$19,852,690 from 2005 through 2010. It is enhancing its efforts to mirror the best practices of Kentucky Medicaid and the Office of Inspector General.

Ms. Turner also discussed pharmacy innovations and trend management. She reported that Passport has a generic utilization rate of nearly 80 percent. Members receive the care they need and providers make the right choices for care based on data driven, evidence based clinical information. Pharmacists are engaged though the use of eHealth solutions. Passport also established CHOICES, a pharmacy medical utilization review program. With this program, prescribers are presented with combined pharmacy and medical services data to be utilized by individual prescribers for comparative purposes.

Lastly, Denise Keyhoe of Perform Rx and Dee Dee Davis, Vice-President, Health Plan Operation, Passport were present to discuss the provider and member portal, Passport's latest innovation. This on-line member portal offers the ability to be proactive. It offers an overview of the individual's care in-depth, with a look into the member's profile, showing details about the client including: lab claims, medical claims, diagnosis, and prescribed medications.

In response to a question by President Williams, Ms. Davis said providers are indirectly incentivized for not duplicating medical tests that have already been done. The portal identifies individuals over-utilizing and duplicating tests.

In response to a question by President Williams, Shannon Turner said that managed care could provide value in all areas of Kentucky. Having a primary care medical home model is the most valuable asset.

In response to a question by President Williams, Dr. Cook said that it has not been problematic in the Passport region to have most physician practices purchased by hospi-

tals. Ms. Turner said that would not impede the rest of Kentucky either.

In response to a question by President Williams, Shannon Turner said there is a willingness of pharmacies and physicians to participate in managed care.

In response to a question by President Williams, Dr. Cook said there is no good data to say if the Passport model would work in the rest of Kentucky. Shannon Turner said the models in the rest of the state were different than the Passport model. Now that times have changed, there may be a more receptive nature to managed care models across the state.

In response to a question by Representative Watkins, Dr. Cook said Passport does not provide recipients or providers with computers, but the portal is available on-line for those with internet access.

Next, Pamela Perry of Amerigroup Community Care spoke briefly about its managed care organization. Amerigroup is a Medicaid managed care organization that operates in 11 states. Expansion of Medicaid in Kentucky would make the most sense for cost containment in the state. The expansion would provide a medical home for all Medicaid recipients. The Kentucky Medicaid budget is growing at an unacceptable rate, and the Medicaid population is expanding rapidly. Kentucky should use a Request for Proposal (RFP) to find the best deal on a managed care company to take over the rest of Kentucky. After the process is started, cost savings would be seen in about one year.

In response to a question by Representative Lee, Ms. Perry said the all contracts should be risk-based from the beginning.

In response to a question by Representative Lee, Ms. Perry said that Amerigroup currently has contracts that include long-term care and mental illness.

President Williams noted that Commissioner Johnson of the Cabinet for Health and Family Services was present at the meeting and asked for the progress the Cabinet had made on recommendations for cost savings in Medicaid. Commissioner Johnson said the Cabinet will be having a meeting about cost efficiencies soon and she will get those recommendations to the committee as soon as possible. President Williams said if the committee does not soon get recommendations regarding

cost savings from the Cabinet, the Legislative Research Commission will direct them to provide the recommendations.

In response to a question by Representative Lee, Commissioner Johnson said she would provide the committee with the pay difference between generic and name brand drugs.

In response to a question by Senator Stine, Commissioner Johnson said the Medicaid population generic utilization rate outside of Passport is 74 percent.

The meeting was adjourned at 12:42 p.m.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 2nd Meeting of the 2010 Interim

August 10, 2010

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Transportation was held on Tuesday, August 10, 2010, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Hubert Collins, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators Walter Blevins, David Givens, Jimmy Higdon, Bob Leeper, R.J. Palmer, John Schickel, Brandon Smith, Damon Thayer, Representatives Eddie Ballard, Tim Couch, Will Coursey, David Floyd, Richard Henderson, Melvin Henley, Jimmy Lee, Charles Miller, Lonnie Napier, Rick Nelson, Marie Rader, Arnold Simpson, Fitz Steele, Jim Stewart, and Tommy Turner. House Majority Floor Leader Rocky Adkins attended the meeting as a guest.

Guests: Tammy Branham, Executive Director, Office of Budget and Fiscal Management, Kentucky Transportation Cabinet; Chuck Knowles, Deputy State Highway Engineer, Kentucky Transportation Cabinet; J Secretary Mike Hancock, Kentucky Transportation Cabinet; Joe Crabtree, Director of the Transportation Center; Taylor Manley, Budget Office, Transportation Cabinet; Martha Horseman, Training Manager, Director of the Transportation Center; Patsy Anderson, Director of Technology Transfer; Richard Dobson, Executive Director, Sales and Use Taxes; and Jim Oliver, Director of Miscellaneous Taxes, Kentucky Department of Revenue.

LRC Staff: John Snyder, Brandon

White, Dana Fugazzi, Ashlee McDonald and Jennifer Beeler

Representative Henderson made a motion to amend the minutes from the July 6, 2010 meeting. On page 4, second paragraph, it should read 5,000 instead of 500. The motion was seconded by Representative Lee, and approved by voice vote. The motion was then made by Representative Henderson to approve the minutes as amended. The motion was seconded by Representative Lee and adopted by voice vote.

Senator Leeper wanted to think Chairman Harris and Chairman Collins for allowing the reconstitution of the Subcommittee on Kentucky Waterways. Senator Leeper also stated that the first meeting of the subcommittee is going to be August 20, 2010 at 8:00 a.m. in Paducah. It will be a joint meeting with the Special Subcommittee on Energy. There will be a tour of the Olmsted Lock and Dam Project. He stated that staff has provided information on the meeting to subcommittee members.

Chairman Collins introduced the first guests of the meeting, Joe Crabtree, Martha Horsemen, and Patsy Anderson; all with the University of Kentucky's Transportation Center (KTC). The mission statement of the Kentucky Transportation Center is to provide services to the transportation community through research, technology transfer and education. The center also creates and participates in partnerships to promote safe and effective transportation systems.

Mr. Crabtree, Director of the Transportation Center, began his presentation by reviewing the history of the KTC, which traces its origins back to 1941, when Kentucky Highway Department formed the Division of Research, located on the University of Kentucky's campus. In 1979, UK's Board of Trustees created the Kentucky Transportation Center at UK. In 1980, the Kentucky Department of Transportation abolished the Division of Research and transferred these activities to the KTC.

Mr. Crabtree explained that the total budget for the KTC is around \$10 million dollars a year, a \$4 million increase from 10 years ago. The General Assembly appropriates \$190,000 annually to the KTC and the program is able to leverage that to generate the \$10 million dollar research program funding from a variety of sources. Mr. Crabtree described the breakdown of the KTC funding sources which includes funding from State Planning

and Research, U.S. Department of Homeland Security, other Universities, other state agencies, and other Federal programs.

Mr. Crabtree informed the Committee about two recent research projects where the center's work resulted in cost savings. The first project pertains to the use of Ground-Penetrating Radar at the Cumberland Gap Tunnel. The Cumberland Gap tunnel was completed in 1996 and six years after its completion, pavement settlement was detected. KTC researchers used Ground-Penetrating Radar (GPR) to assess the problem which was substantial voids developing beneath the pavement. These voids were anywhere from 20-80 feet long and depths up to 40 inches. Examinations of the groundwater showed an extremely low "calcite saturation index." As the groundwater flowed through the backfill material under the pavement, it was dissolving the material and carrying it away, causing the voids.

Mr. Crabtree explained that the short-term fix for the tunnels is to remove and replace a 125 foot settled area and inject cement grout beneath the pavement. The permanent fix is to remove and replace approximately 8,000 lineal feet of pavement, using granite backfill. This is scheduled to be done in 2013 in the 6 year highway plan.

The next project Mr. Crabtree discussed was the Bridge Retrofit using Carbon Fiber Reinforced Polymer (CFRP) Fabric. This is a much more cost effective solution to repairing bridges. The original solution would be to replace the superstructure would cost approximately \$600,000 and shut off traffic to the bridge during the repairs. With the CFRP approach, it would cost \$105,000 (which includes design, repair, and 3 years of monitoring) and would allow the bridge to remain open to traffic (excluding heavy trucks) during repair process.

Martha Horseman, Training Manager for the KTC Technology Transfer Program explained the mission statement of the Program, whose mission is to foster a safe, efficient, environmentally sound surface transportation system by improving skills and increasing knowledge of the transportation workforce and decision-makers. Ms. Horseman stated that one of the services they provide is their library, which provides over 20,000 volumes of materials, 800 videos, online lending library, manuals, and

a Traffic Counter loan program.

The TTP also provides publications and marketing services as well as technical assistance across the state. The technical assistance program is currently working in areas with "high crash rates" to provide low-cost roadway safety improvements. Ms. Horseman stated that in the counties where they have visited, they have seen a dramatic drop in crashes and in some areas it's as much as 26 percent. She also stated that these projects are less than \$10,000 dollars so it is very affordable for local governments.

Chairman Collins wanted to clarify if this program has reduced the rate of crashes in the areas where the traffic warning signs were implemented. Ms. Horseman stated that it has. Ms. Anderson added that each county is responsible for cost of implementing the suggestions provided by the TTP. Ms. Horseman continued the discussion stating that the largest area of the program is training. She added that the program delivered 206 training sessions to 5,571 participants and had a total of 33,250 participant contact hours. The TTP also has a Roads Scholar program and a Roads Master program both of which focus on road maintenance and safety improvements.

Next, Mike Hancock, Secretary of the Transportation Cabinet and Tammy Branham, Executive Director, Office of Budget and Fiscal Management, Kentucky Transportation Cabinet updated the Committee on the Road Fund and Bonding for Highway Construction. Ms. Branham began her presentation by informing the committee of how the Transportation Cabinet ended the fiscal year 2010. Ms. Branham stated that they exceeded the road revenue estimate by \$7.5 million, exceeding the revised estimate by less than 1 percent. Exceeding the revenue by \$7.5 million, added to the amount the cabinet was able to lapse to the state construction account in compliance with the surplus expenditure plan meant the cabinet lapsed a total of \$41.9 million dollars.

The Transportation Cabinet lapsed \$23.3 million in debt service as well as \$11 million in operating. Ms. Branham also informed the committee of the upcoming estimates for the 2011-2012 Biennial Road Fund. The total revenue estimate for fiscal year 2011 is \$1.265 billion and for fiscal year 2012 is \$1.340 billion. The fiscal year 2011 estimate has been

reduced by the legislative action to extend the motor vehicle usage trade-in allowance by \$4.8 million. The cabinet also realized the maximum amount that they could have increased gas tax for the 1st quarter in the fiscal year 2010 because of the increase in the average wholesale price of gasoline. The price jumped from \$1.96 to \$2.16, increasing the per gallon tax by 1.8 cents.

Ms. Branham stated that the motor vehicle usage trade-in credit has been legislatively extended until June 2011 or until the \$25 million dollar cap is reached, whichever comes first. This legislation allowed for a trade-in allowance on the purchase of a new vehicle. As of August 9, 2010, the trade-in credit was \$23.5 million. It is estimated that the \$25 million cap will be reached by the end of August.

Ms. Branham then gave a historical overview of vehicle use taxes and found that the revenues from FY 2010 barely exceeded revenues from FY 1996. In fiscal year 2010, the cabinet exceeded the estimate slightly, collecting \$332.8 million. The projection that the consensus forecast group has estimated for fiscal year 2012 is \$398.1 million. Secretary Hancock added that this was a long term issue since transportation has traditionally been funded as a "pay as you go" program.

Ms. Branham moved on to the Advancement of 2009 and 2010 Bond Projects and a discussion of how the cabinet manages bond program cash. No projects are being delayed because bonds aren't being sold. Ms. Branham explained that the cabinet is managing Bond program cash using sound cash management practices, which include starting projects as soon as possible using all available program cash, only selling bonds as cash is needed and avoiding arbitrage. Arbitrage is a future potential interest rebate due to the IRS if funds are not spent for designated purposes within defined IRS time frames. In the event a "spend-down" schedule is not met, a rebate may be required if interest earnings on invested bond proceeds exceed the interest paid to investors.

Senator Givens wanted to clarify with Ms. Branham what exactly a BAN was. Ms. Branham explained that it was a Bond Anticipation Note. Bond anticipation notes are an excellent means of acquiring short term financing that will later be repaid by the issuance of bonds, with a

portion of the proceeds gained from the sale of the bonds going to settle the notes. The use of the bond anticipation note is common for local municipalities that wish to generate funding for an upcoming project, and plan on issuing bonds that will cover the expenses over the long term.

Senator Givens also wanted to know if the BAN moved projects ahead faster. Ms. Branham explained that it was not faster, but a cheaper way of accomplishing the same task. Senator Smith then asked who exactly the market for the sale of these bonds was. Taylor Manley, Budget Office, Transportation Cabinet, said the market was generally larger banks.

Chairman Collins recognized Majority Floor Leader Rocky Adkins as a guest. Representative Adkins commented that the bond market is very attractive right now because of the lowered interest rates. Representative Adkins also asked if the passage of the transportation plan means the cabinet will be able to recoup some of the money spent and if there would be a saving to the taxpayers. Secretary Hancock stated that the goal was to move projects out as soon as possible.

Ms. Branham further explained how the cabinet manages cash so that every bond authorization gets the authorization due and advance projects. Ms. Branham stated it was on a 1st in and 1st out basis. In 2005 the General Assembly legislated the \$300 million to the Transportation Cabinet. Secretary Hancock also added that everyone needs to understand that if there was a project in the road plan that says SP, meaning "state funded dollars," that is the lowest priority identified and they typically do not expect to have funding available.

The next item on the agenda is the discussion on the Cabinet's Storage and Removal of Ice Storm Debris from the 2009 ice storm. Chuck Knowles, Deputy State Highway Engineer, Kentucky Transportation Cabinet began by explaining to the members the scope of the damage from that storm. He stated that 103 out of 120 Kentucky counties were declared disaster counties. The cabinet has removed 15.7 million cubic yards of material from the roadside and disposed of it. The cabinet used 193 management sites statewide, some of which were public sites. The cabinet had 90 property leases with private property owners. To date, the cabinet has spent \$134 million in cleaning up the January 2009 ice

storm. So far the cabinet has received reimbursements of \$20 million from FEMA and \$16 million from Federal Highway Administration. Of the \$134 million, \$3 million was paid to lease private property owners and \$4 million to cities and counties for their effort in clean up.

Chairman Collins inquired about disposal of the debris left over from the ice storm. Mr. Knowles explained that the cabinet had a wide variety of options. Some was put into landfills and debris was ground and disposed of. There were some companies that offered a free chipping service and the cabinet also utilized burning to dispose of debris.

Senator Leeper explained that a concern of his constituents is that there is a contract that states that the property being leased for debris management shall be left in the condition it was found. One of the efforts that the constituents tried was to dig trenches to fill with debris and burn it. The constituents concern is with the settling of that trench. Senator Leeper asked if there was any requirement that stated the cabinet needed to fill that in to make it as it was. Mr. Knowles stated that the cabinet's goal from day one was to dispose of debris and restore property to the original state.

Senator Leeper also had another constituent whose concern dealt with the contracted companies. The constituent was concerned that the contracted company was not paying their employees. Senator Leeper asked if there was any oversight on payment to employees of the contract company. Mr. Knowles explained that would have to be a question directed to the Department of Labor. Todd Shipp, Legal Office, approached the testimony table to help clarify this matter. Mr. Shipp stated that any concerns with employees not being paid needed to go to the Department of Labor.

Representative Coursey asked who was responsible for writing the contracts for debris clean up. Mr. Shipp stated that as a general rule, they try to keep a universal contract. Representative Coursey also asked if the contractors were given options on how they would like to dispose of the debris. Mr. Knowles explained that the cabinet decides how they want the debris disposed of and then write the contract. Representative Coursey wanted to ensure that the private property that is being leased will be returned to its original state. Mr. Knowles assured him that it

would be.

Representative Henley inquired if there were consequences for contractors that had a repeated history of not paying their employees. Mr. Shipp explained that by law, the cabinet is required to accept the bid for the lowest bidder, but includes the most responsible bidder as well.

Chairman Collins called the next guests, Richard Dobson, Executive Director, Sales and Use Taxes, Department of Revenue; Jim Oliver, Director of Miscellaneous Taxes, Department of Revenue to discuss the New Motor Vehicle Trade-In Credit. Mr. Dobson explained that on the Department of Revenue's website, there is a display that shows the accumulated credit towards the tax credit. This has been implemented since the credit took effect in September 2009. Mr. Dobson explained that based on their calculations, the estimated tax credit will be reached on August 23, 2010. Mr. Dobson also stated that the Department of Revenue has been in constant contact with the clerks offices and KADA to keep them updated on where the numbers stand.

Chairman Collins stated that the committees concern was that the dealerships have the information where they are able to check the tax credit regularly each day. Mr. Dobson stated that it was almost an impossibility to keep them informed to the exact minute because of the lag time between dealerships and clerk's offices receiving the paperwork from the trade.

Chairman Collins wanted to briefly explain the item of business which pertained to the consideration of Referred Administrative Regulation 601 KAR 2:020 – Drivers' Privacy Protection. He explained that it gave gas stations the opportunity to get information from the cabinet that would allow them to prosecute any drive-offs at gas stations. No objection was raised to the proposed Administrative Regulation.

Before adjournment, Chairman Collins informed the members that the next meeting would be held on September 7th, 2010.

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

**INTERIM JOINT COMMITTEE
ON TRANSPORTATION**
Subcommittee on Kentucky Waterways
**Minutes of the 1st Meeting
of the 2010 Interim**
August 20, 2010

Call to Order and Roll Call

The 1st meeting of the Subcommittee on Kentucky Waterways of the Interim Joint Committee on Transportation was held on Friday, August 20, 2010, at 8:00 AM Central Time, in the Conference Room at the Courtyard Marriott in Paducah, Kentucky. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Will Coursey, Co-Chair.

Non-Members: Representative Steven Rudy

Guests: Colonel Keith A. Landry, Commander, Louisville District, United States Army Corps of Engineers; John Talbert, Big Rivers; Ken Wheeler; Norb Whitlock, Pam Helton, Kentuckians for Better Transportation.

LRC Staff: Brandon White and Jennifer Beeler, Committee Assistant Coal Transportation, Olmsted Locks and Dam, and NWP-21

In response to Senator Smith, Colonel Landry explained the locking process and stated that the technology has not changed much since the early 1700 and 1800s.

Representative Rudy stated that the Olmsted Dam is being built in Kentucky water and also in the first House district. He also stated that of the workers being hired in to work on the Olmsted project, half are from Kentucky and half are from Illinois. He said that the river industry is also vital in Kentucky.

Representative Hall said that the river industry provides about 6,500 jobs. He stated that in Kentucky about one-third of the coal comes from stripping, contouring and mountain development. If Kentucky's coal was no longer mined, that would be like shutting down the whole barge industry because 40 to 50 percent of barge traffic is coal.

Colonel Keith A. Landry, Commander, Louisville District, United States Army Corps of Engineers (USACE) stated that there are four corps of engineers districts that have a piece of Kentucky: Memphis, Louisville, Huntington and Nashville.

In response to Representative Couch, Colonel Landry said the corps district boundaries were determined years ago by watersheds. For example, the Louisville district has the watershed of the lower Ohio River. He said the USACE tries to regulate issues on a state by state basis to prevent a state from having multiple districts to work with. Kentucky still has the distinction of having to work

with four corps districts depending on where the operations fall when it comes to permit and regulatory issues. The Louisville district has responsibility for the entire commonwealth in terms of emergency management.

Colonel Landry stated that coal is the largest commodity that moves up and down the river. The value of the Ohio River to commodities and industry is transparent during normal operations. When lock closures occur, traffic can be slowed, even stopped, affecting the delivery of goods and ultimately increasing costs to the consumer. In the absence of the Ohio river navigation system, by 2050 the United States would have 80,000 fewer jobs and a loss of \$41 billion in economic income.

Colonel Landry said the USACE has a navigation center in the Huntington district that keeps track of statistics regarding what moves up and down the river. He said the navigation center can determine what products have come through any given lock.

He stated that in Kentucky, the USACE has an economic impact of 19,000 jobs and nearly \$2 billion. In fiscal year 2008 the Louisville district alone had an economic impact of 27,000 jobs and about \$7.5 billion nationwide.

Colonel Landry said locks and dams 52 and 53 are the last wooden wicket dams in Kentucky. These locks were built in the 1920's. Each lock has a 600 foot chamber approach wall out of alignment, as well as 1,200 foot chamber cells that are split apart and losing fill material. He stated that it is critical that Olmsted is finished in a timely fashion before something happens to locks 52 and 53. There is a requirement to keep a 9 foot deep channel for barge traffic. When the river drops too low, the barges cannot get through that portion of the river so it is necessary to pool water above the dam to allow them to pass through the locks. He said that locks 52 and 53 are the busiest locks within the waterway system. To lose these two locks and to move the same cargo, would result in an additional 11,000 trucks added to our roadways every day for a year.

Colonel Landry stated that the when the Olmsted Dam was originally authorized in 1985 it was projected to cost \$750 million, now it is projected to cost \$2.1 billion. The dam is not scheduled for comple-

tion until 2016 and at that time the USACE will remove locks 52 and 53. He said that Olmsted dam will become the busiest spot on the waterways system in the nation. When it is completed 25 percent of the coal in the nation will move through the locks at Olmsted.

Colonel Landry said that in the process of building this dam, the workers cast 6 pieces of the dam at a time. He stated that it takes approximately 9 months to precast each piece that weighs between 3,500 to 5,000 tons.

In response to Senator Smith, Colonel Landry stated that the river surface is first prepared with a grout mat, then the pieces will be dropped on top of that mat. Then the pieces will be grouted and secured in place to create a concrete sill.

In response to Senator Smith, Colonel Landry stated that there are friction piles that go through the grout mat, but not all the way to bedrock because it is too far down. It has been determined that there are sands that have not moved for a very long time so the pieces are anchored into the sand.

Colonel Landry stated that to build this project the corps purchased the largest gantry crane in the world. The crane can lift a maximum of 5,100 tons. This crane is required on this project to lift and carry the large precast concrete shells that will be set in the river to construct the dam. The catamaran barge has a maximum capacity of 4,500 tons and is required to carry the large precast concrete shells with attached lifting frames on the river from the lower marine skid way to the shell's final location.

He said that, using GPS and 3D imaging from the shoreline, the USACE was able to sculpt the river bed to the exact shape and contours that were necessary to keep ahead of the sand wave that moves across. He stated that the USACE will own all the equipment used to build the Olmsted Dam and that they have not made a decision on what to do with the equipment the dam is completed.

Colonel Landry stated that Olmsted incorporates unique engineering because it is compromised of a wicket dam. The wickets can be lowered during high water and barges can navigate over the structure. The wickets are made of steel and during low water the wickets are raised with a hydraulic prop and at high water,

they lay down allowing traffic to pass over the dam.

He said that 50 percent of the material that moves on the river is coal. Twenty percent of the nation's coal-fired generation capacity is in the Ohio river system. There are 56 coal-fired plants on the Ohio river system. He stated that most of the coal that is mined in Kentucky is not actually used in Kentucky.

Colonel Landry stated that in 2008 Governor Beshear unveiled the state's first-ever comprehensive energy plan. The plan calls for a 20 percent reduction in greenhouse gas emissions while creating 40,000 jobs tied to energy production and conservation between now and 2025. He said that McAlpine and Markland are two of the dams in Kentucky that produce hydropower. The USACE is currently in the process of making Smithland and Cannelton hydropower dams as well. He stated that when those dams are complete, the total hydropower generation capacity in the commonwealth will be three-quarters of a million kilowatts. He said that will be enough electricity to light up about one quarter of a million homes for a full year.

In response to Senator Smith, Colonel Landry stated that the dams that are currently being removed would not include the dams in Kentucky that are currently used for hydropower. He said that the ones that are being removed are the smaller, older agriculture dams that have not been maintained and are no longer needed. He said that there is no serious consideration about putting hydropower in Olmsted because there will not be as much of a change in elevation as is needed.

In response to Senator Smith, Colonel Landry said that the current generates the flow of the hydropower.

In response to Senator Boswell, Colonel Landry stated that the work stabilization being done at Wolf Creek was on track. They saw some additional movement in one of their indicators, stopped to do some assessment, and adjusted their plan to move forward.

In response to Representative Hall, Colonel Landry said that the USACE New Orleans district is involved in helping with the gulf oil spill. The Colonel said the main questions were what skills their staff had in case they were asked to go down and help.

Colonel Landry stated that the

Louisville district has the regulatory authority for the whole state. When he first took command the approval rate for general permits was above 90 percent and now the rate is at 98 percent. He said that for individual permits, the rate was in the low 20 percent range when he took the job and now it is at 55 percent. He said that a permit is issued for the least environmentally damaging practicable alternative.

In response to Representative Couch, Colonel Landry said that in the most recent permits, due to a high level of additional mining, the USACE has asked for additional testing.

In response to Senator Smith, Colonel Landry said that he is responsible for approving permits that cause the least amount of environmental damage possible.

In response to Senator Jones, Colonel Landry stated that he is just responsible for enforcing the regulations.

Representative Combs stated that in her understanding, the EPA delegated regulatory authority to the USACE. Colonel Landry responded that the regulatory authority resides with the EPA. He said they have delegated the permitting to the USACE but they have retained the ability to override the decision.

In response to Representative Combs, Colonel Landry stated that permits related to the waterways and coal mining are issued by the USACE. There are other state agencies that deal with other kinds of permits.

Meeting adjourned.

After the meeting adjourned the members took a tour of the Olmsted Lock and Dam.

INTERIM JOINT COMMITTEE ON VETERANS, MILITARY AFFAIRS, AND PUBLIC PROTECTION

**Minutes of the 1st Meeting
of the 2010 Interim**
August 12, 2010

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, August 12, 2010, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Tanya Pullin, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Tanya

Pullin, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Denise Harper Angel, Vernie McGaha, Joey Pendleton, Kathy W. Stein, and Jack Westwood; Representatives Linda Belcher, Tom Burch, Dwight D. Butler, Mike Cherry, Leslie Combs, Tim Couch, Ron Crimm, Robert R. Damron, Myron Dossett, David Floyd, Jimmie Lee, Tim Moore, Fred Nesler, Tom Riner, Carl Rollins II, Steven Rudy, Sal Santoro, Charles Siler, Dottie Sims, John Tilley, and Alecia Webb-Edgington.

Guests: Brigadier General Mike Richie, Assistant Adjutant General-Army, Col. (Ret.) Mike Jones, Executive Director, Kentucky Department of Military Affairs; Margaret Plattner, Deputy Commissioner, Jeff Acob, Staff Assistant, Paul Hartless, Executive Adviser, Shaun McKiernan, Fiscal/Budget Manager, Alan Workman, Internal Policy Analyst, Kentucky Department of Veterans Affairs; Bob Morey, Facility Planner, Robley Rex VA Medical Center; Carlos Pugh, JECVO.

LRC Staff: Erica Warren, Clint Newman II, Mustapha Jammeh, Tiffany Opil, Jessica Causey, and Rhonda Schierer.

Resolutions

Senators Clark and Tori, and Representatives Tilley, Webb-Edgington, Belcher, Moore, Santoro, and Floyd read resolutions for fallen soldiers: Staff Sgt. James P. Hunter, Private First Class Russell E. Madden, Sergeant First Class Kristopher D. Chapleau, Private First Class Michael S. Pridham, Private First Class Nathaniel D. Garvin, Lance Corporal Adam Puckett, Corporal Harry J. Reeve, and Staff Sergeant Christopher T. Stout. A motion was made and seconded to adopt the resolutions, and they were unanimously adopted.

Robley Rex (Louisville) Veterans Affairs Medical Center Update

Bob Morey, Facility Planner, gave a brief update on the ongoing process for the future location of Robley Rex VA Medical Center. Mr. Morey stated that the Veterans' Affairs Chief of Staff and the Secretary for Health Operation Management recently toured the current facility, the downtown university location, and surrounding areas to determine the best site. In April, 2010, an advertisement seeking expressions of interest to acquire a site for the construction of a veterans' medical center was posted in the Louisville Courier-Journal for two weeks with a large number of responses. During May, 2010, a site selection board toured 20 possible

sites in response to the advertisement, and has since submitted a site selection report with recommendations to the Secretary of Veterans Affairs. That report is currently in the concurrence process. It is anticipated that once approval is given on the greenfield site options, meaning sites without prior construction or use, it will take approximately a year for the due diligence process for those sites.

In response to a question from Senator Gibson, Mr. Morey said that the original evaluation for the project was in 2004, and the process has taken other veterans' hospitals approximately ten years for completion. It is projected that, over the next 20 years, there will be a 48 percent increase in veterans served in Kentucky veteran facilities. In response to a question from Chair Pullin, Mr. Morey stated that the next step committee members should watch for is the site selection for the greenfield sites.

Kentucky Department of Military Affairs Update

Brigadier General Mike Richie, Assistant Adjutant General-Army, and Col. (Ret.) Mike Jones, Executive Director, Office of Management and Administration, gave an update on the Kentucky Department of Veterans Affairs and provided a power point presentation. General Richie stated that the Kentucky Army National Guard has 7,266 soldiers, and the Kentucky Air National Guard has 1,206 soldiers. These components have dual capabilities including transportation and truck, medical, engineer, and military police assets with the Army National guard and airlift, medical assets, and a special tactics squadron in the Air National Guard. The unique thing about the National Guard structure is how it supports both the war on terrorism and disasters in Kentucky, among other missions. Agribusiness Development Teams are unique to the National Guard. They are a small team that is responsible for teaching Afghanistan farmers how to farm and market their products to improve and sustain their quality of life. A new civil support team will provide on-site intervention and clean-up in the event of a radiological chemical attack in the United States and will be fully functional in 2012.

There are 53 armories and one airbase in 49 counties. There are two training sites in Kentucky: the Wendell H. Ford Regional Training Center in Greenville, Kentucky, and the Harold L. Disney Training Center

in Artemus, Kentucky. Challenges the National Guard is facing include frequent deployments, citizen-soldier turned active duty resource, and family and financial stress. There are Department of Defense programs available to assist, such as the Family Relief Assistance Program, National Guard Resilience Program, and the Suicide Prevention Program. Community support for the Guard includes Veterans Affairs and local medical facilities. Kentucky programs to help with issues are the veterans preference in employment opportunities, TRICARE supplement insurance, military pay income tax exemption, and the Military Family Assistance Trust Fund.

In response to Senator Tori's question, General Richie stated that there are 460 troops deployed around the world. In response to Representative Burch's expressed concern for soldiers' pay and stability for their families, Adjutant General Richie replied that when soldiers return home from being deployed, most employers are willing to support the families. He gave the committee a 24 hour family emergency assistance toll free number to provide to constituents. In response to Representative Farmer's question on the effect of federal level cuts to the budget, General Richie stated that the National Guard will operate with fewer people and less equipment. In response to Representative Damron's question, the funding has not affected the program for honoring heroes. The program "We Will Not Forget" provides services every year.

Kentucky Department of Veterans Affairs Update

Margaret Plattner, Deputy Commissioner, apologized for Commissioner Ken Lucas's absence by explaining that he was recovering from surgery and introduced several staff member from the Kentucky Department of Veterans Affairs who would update the committee.

Allen Workman, Internal Policy Analyst for the Kentucky Department of Veterans Affairs, discussed the three veterans centers in Kentucky. He testified about the number of residents and employees at each facility and the number of veterans on the waiting list at each. Mr. Workman also described the capital projects, including the Western Kentucky Veterans Center's 36-bed expansion and a fourth veterans center to be built in Hardin County.

Jeff Acob, Staff Assistant for

the Kentucky Department of Veterans Affairs, gave a brief update on the on Kentucky veteran's cemeteries, including when each opened and how many interments each has had. Mr. Acob described the new and fourth cemetery, the Kentucky Veterans Cemetery Northeast in Greenup County, and indicated that the estimated date of completion will be August 21, 2010. The dedication ceremony will be on September 10, 2010. Committee members are invited to attend. Through the Burial Honors Stipend Program, the KDVA paid out \$117,120 for honors in FY 10. So far for FY 11, the KDVA has paid out \$12,575. Representative Damron expressed how important the Burial Honors Program is to the families of the veterans. In response to Representative Lee's question pertaining to special needs children having a spot at the veterans' cemeteries, Mr. Acob explained that a special needs child can be buried in the cemetery along with the veteran and widow as long as the special needs has been documented and established for the child prior to age 18.

Paul Hartless, the Executive Advisor of Field Operations for the Kentucky Department of Veterans Affairs, stated that his office tries to help veterans and their families in filing all claims from the time of the veteran's discharge to the date of burial. There are 18 field representatives located throughout the state, four regional administrators, and one administrative employee. There have been significant increases in the number of claims for benefits in the past year for disabilities and enrollment into the VA healthcare system. Fort Knox and Fort Campbell have a field operations branch to assist soldiers who are filing claims in the process of getting out of the military. Field Operations also helps at the Soldier Family and Assistance Center, Warrior Transition Unit, retiree services, casualty assistance, and community-based outpatient clinics. Representative Damron stated that a small investment from the state for benefits officers yields great returns for the economy and great services to the veterans.

Shaun McKiernan, the Fiscal/Budget Manager for the Kentucky Department of Veterans Affairs, gave a brief overview of its budget. KDVA's overall spending budget is \$43.8 million, and most of that money is for personnel. The administration is expecting an additional \$673,800 cut

for this fiscal year. To address this expected cut, they are reducing vehicles in the motor pool, delaying filling key positions, and reducing several programs. The General Assembly provided \$100,000 per year for the Veterans Service Organizations, the Acquired Brain Injury Alliance, and the Epilepsy Foundation Program. Additional federal money is supporting the programs, but additional cuts could impact services.

Chair Pullin announced that the committee would send a get well card to Commissioner Lucas.

There being no further business, the meeting adjourned.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

August 17, 2010

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee met on Tuesday, August 17, 2010, at 1:00 p.m., in Room 169 of the Capitol Annex. Representative Susan Westrom, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Susan Westrom, Co-Chair; Senators Julian M. Carroll and Elizabeth Tori; Representatives Steven Rudy and Jim Wayne.

Guests: Larry Owsley, University of Louisville; Larry Blake, Northern Kentucky University; John Hicks, Governor's Office of Policy and Management; John Nicholson, Kentucky Horse Park; Charles Bush, Division of Real Property; Sherron Jackson, Council on Postsecondary Education; Sandy Williams, Kentucky Infrastructure Authority; and Robin Brewer, Office of Financial Management.

LRC Staff: Kristi Culpepper, Don Mullis, and Samantha Gange.

Approval of Minutes for July 2010

Representative Rudy made a motion to approve the minutes of the July 20, 2010 meeting. The motion was seconded by Senator Leeper and approved by voice vote.

Correspondence Items

Representative Westrom asked Kristi Culpepper, Staff Administrator, to discuss correspondence items. Ms. Culpepper said members' folders contained two correspondence items: the first item was correspondence from Tom Howard, Executive Director, Office of Financial Management (OFM), regarding questions

raised by Committee members at the July 2010 meeting. Members had requested that OFM provide additional information regarding the other states that have restructured their debt for the purpose of providing budgetary relief.

The second item of correspondence was a report of a plan from the Division of Engineering and Contract Administration to use the Design-Build project delivery method for the Department of Military Affairs, Wendell H. Ford Regional Training Center in Muhlenberg County.

Information Items

Ms. Culpepper said members' folders also contained the staff and bond market updates.

Scope Increase for the University of Louisville

Representative Westrom asked Larry Owsley, Vice President for Business Affairs, University of Louisville (UL) to report a scope increase. Mr. Owsley reported a scope increase for the Expand and Renovate Dental School project. The scope increase is \$1,500,000 for a revised scope of \$45,200,000. Funding for the increase comes from restricted funds and private funds. The additional funds are needed for an upgrade to state-of-the-art equipment and technology in the building as well as new equipment that was not foreseen during the initial planning.

Representative Rudy made a motion to approve the scope increase for UL. The motion was seconded by Senator Leeper and passed unanimously by roll call vote.

Report of Unbudgeted Scientific Research Equipment for UL

Next Mr. Owsley reported that UL has used available restricted and federal funds totaling \$995,276 to acquire three items of scientific research equipment. Purchases of unbudgeted equipment must be reported to the Committee. No action was required.

Report of New Leases for UL

Mr. Owsley reported that UL has five new leases with annual costs in excess of \$100,000. The first new lease was for UL Human Resources for space located at 300-333 Brandeis Street. The new space will be utilized for warehouse storage. The annual cost is \$196,704 through June 30, 2011.

The second new lease was for UL Central Receiving and Central Storages for space located at Floyd and Brandeis Streets. The new space will be utilized for warehouse storage.

The annual cost is \$159,252 through June 30, 2011.

The third new lease was for UL Archaeology and Physical Plant for space located at 1820 Arthur Street. The new space will be utilized for warehouse storage. The annual cost is \$111,936 through June 30, 2011.

The fourth new lease was for UL Human Resources for space located at 1901 South Floyd Street. The new space will be utilized for warehouse storage. The annual cost is \$114,156 through June 30, 2011.

The fifth new lease was for UL Family and Geriatric Medicine for space located at 1941 Bishop Lane. The space will be utilized for a medical office. The initial annual cost is \$122,283, and the lease runs through December 31, 2018. Action is required on leases with an annual cost in excess of \$100,000.

Representative Rudy made a motion to approve the five new leases for UL. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

Northern Kentucky University Property Acquisition

Representative Westrom called on Larry Blake, Assistant Vice President for Facilities, Northern Kentucky University (NKU), to report a property acquisition. Mr. Blake reported that the City of Highland Heights transferred to the university the title of a 9.3 acre parcel of land on the east side of the NKU campus on June 18, 2010. The transfer is part of a Memorandum of Agreement between NKU and the city related to the city's annexation of the core areas of campus into the city. In exchange for agreeing to the annexation, the city issued general obligation bonds to finance NKU's soccer stadium. In addition to the soccer complex, the property also includes: the city's old Civic Center, salt bins, Public Works building, Maintenance Storage building, and a single-family residential structure. No action was required.

In response to a question from Representative Wayne, Sherron Jackson, Vice President, Council on Postsecondary Education (CPE), said NKU did not need CPE approval for the property acquisition because there was authorization in the budget.

Scope Increase for the Kentucky Horse Park

Representative Westrom asked John Hicks, Deputy Director, Governor's Office of Policy and Management to report a scope increase. Mr.

Hicks reported a scope increase for the Kentucky Horse Park Big Barn Renovation – Visitor Center and Carriage Museum project. The scope increase is \$229,700 for a revised scope of \$1,193,700. The project is 100 percent federally funded from Transportation Enhancement grant funds. The increase was necessitated because of bids coming in greater than originally projected.

In response to a question from Senator Leeper, John Nicholson, Executive Director, Kentucky Horse Park (KHP), said most of the construction on the project will be completed in time for the 2010 World Equestrian Games.

Senator Leeper asked about the status on other construction projects for KHP and whether they would be finished in time for the games. Mr. Nicholson said most projects such as the Indoor Arena and the Outdoor Stadium have been completed. Additionally, most of the road projects have also been completed.

In response to another question from Senator Leeper, Mr. Nicholson said the energy savings project is not yet complete, however KHP hopes to have the waste-to-energy facility operating for demonstration purposes during the games.

Senator Leeper made a motion to approve the scope increase for KHP. The motion was seconded by Senator Tori and passed unanimously by roll call vote.

Lease Report from the Finance and Administration Cabinet

Representative Westrom asked Charles Bush, Director, Division of Real Property, to report one lease item. Mr. Bush reported a lease modification, amortization of leasehold improvements for the Cabinet for Health and Services in Franklin County (PR-3590). The first improvement includes excavation as necessary to facilitate installation of a concrete pad, a 1200 AMP transfer switch, and all associated cable to allow for installation of an agency-owned diesel generator. The second improvement includes multiple interior changes including new soundproof wall, installation of agency owned cabinets and other equipment, and significant electrical upgrades. The cost of both modifications, \$117,142, will be amortized over the remaining lease term (through June 30, 2014). Because the lease modification is in excess of \$50,000 committee action is required.

In response to a question from

Senator Tori, Mr. Bush said the lessor was not asked to assist with the cost of modifications because the improvements were not included in the initial lease agreement.

Representative Wayne made a motion to approve the lease modification. The motion was seconded by Senator Leeper and passed unanimously by roll call vote.

Kentucky Infrastructure Authority Fund B Loan

Representative Westrom asked Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority (KIA) to present two items. Ms. Williams said the first item was a \$500,000 Fund B loan request for the Bullitt County Sanitation District to acquire the assets of a wastewater treatment plant. The loan term is 20 years with an interest rate of three percent.

Senator Leeper made a motion to approve the Fund B loan. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

KIA Grants

Ms. Williams indicated various coal and tobacco development grants authorized by the General Assembly were included in members' folders. Each project was authorized in a budget bill and no further Committee action was needed.

Follow-up Reports for Previously Approved Bond Issues – State Property and Buildings Commission Project No. 97 and 98 bonds

Representative Westrom asked Robin Brewer, Financial Analyst, OFM, to present several items. Mr. Brewer said the first item was a follow-up report for the State Property and Buildings Commission Taxable Agency Fund Revenue Bonds, Project No. 97. Proceeds from this bond issue will provide permanent financing to construct a hangar at Bluegrass Station in Lexington for the Department of Military Affairs. The project was authorized by the 2010 General Assembly in HB 302. The bond issue was approved by the Committee at the March 2010 meeting.

Ms. Brewer said the second item was a follow-up report for the State Property and Buildings Commission (SPBC) Revenue and Revenue Refunding Bonds, Project No. 98. Proceeds from this bond issue will provide \$22.9 million in permanent financing for the Kentucky Human Resource Information System project authorized by the General As-

sembly in 2010 Special Session HB 1. The transaction will also refund outstanding SPBC and Asset/Liability Commission bonds to provide approximately \$140.7 million in budgetary relief for Fiscal Year 2011. The bond issue was approved by the Committee at the June 2010 meeting. No Committee action is needed on follow-up reports.

School Bond Issues

Ms. Brewer reported 19 new bonds issues with the School Facilities Construction Commission (SFCC) debt service participation for Bell County, Bourbon County, Corbin Independent in Whitley County, Crittenden County, Danville Independent in Boyle County, Estill County, Glasgow Independent in Barren County, Greenup County, Henderson County, Kentucky Interlocal School Transpiration Association (KISTA), Laurel County, Lawrence County, Madison County, McCracken County, Metcalfe County, Ohio County, Owsley County, Powell County, and Webster County.

Senator Carroll made a motion to approve the 19 SFCC bond issues. The motion was seconded by Senator Tori and passed unanimously by roll call vote.

Representative Westrom asked Ms. Culpepper to report the new local school bond issues. Ms. Culpepper said there were 14 new school district bond issues with 100 percent local debt support for Bourbon County, Bourbon County, Calloway County, Clay County, Gallatin County, Jefferson County, Jefferson County, Jessamine County, Johnson County, McCracken County, Mercer County, Pulaski County, Scott County, and Whitley County. All disclosure information has been filed. No Committee action was needed.

With there being no further business, Representative Rudy made a motion to adjourn the meeting. The motion was seconded and the meeting adjourned at 1:30 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the August Meeting
August 10, 2010

Call to Order and Roll Call

The August meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, August 10, 2010, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Leslie Combs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Leslie Combs, Co-Chair; Senators David Givens, Alice Forgy Kerr, and Joey Pendleton; Representatives Robert R. Damron, Danny Ford, and Jimmie Lee.

Guests: Becky Gilpatrick, Melissa Justice, Kentucky Higher Education Assistance Authority; Robert Brown, Alicia Sneed, Education Professional Standards Board; Sarah Ball Johnson, Kathryn Gabhart, State Board of Elections; Jennifer Jones, Schugler Olt, Kentucky Retirement Systems; Lloyd Vest, Board of Medical Licensure; Larry Disney, Jim Grawe, Kentucky Real Estate Appraisers Board; Gerard Buynak, Catherine York, Department of Fish and Wildlife Resources; Steve Sims, Clint Quarles, Department of Agriculture; Sam Devine, Department of Parks; Amy Denham, David Gooch, Johnny Greene, Michael Mullins, Allen Lutrell, Department for Natural Resources; Steve Lynn, Justice and Public Safety Cabinet; Ann D'Angelo, Randall Royer, Transportation Cabinet; Clay Lamb, Jeff Gatewood, Department of Workforce Investment; Kristi Redmon, Labor Cabinet; Dawn Bellis, Timothy House, Richard Moloney, Department of Housing, Buildings and Construction; Carrie Banahan, Rebel Baker, Shirley Eldridge, Phyllis Sosa, Cabinet for Health and Family Services; Steven Milry.

LRC Staff: Dave Nicholas, Donna Little, Sarah Amburgey, Chad Collins, Emily Harkenrider, Karen Howard, Emily Caudill, Jennifer Beeler, and Laura Napier.

The Administrative Regulation Review Subcommittee met on Tuesday, August 10, 2010, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Kentucky Loan Program

11 KAR 3:100. Administrative wage garnishment. Becky Gilpatrick, Student Aid Branch manager, and Melissa Justice, senior associate counsel, represented the division.

KHEAA Grant Programs

11 KAR 5:145. CAP grant award determination procedure.

EDUCATION PROFESSIONAL STANDARDS BOARD: Assessment

16 KAR 6:010. Written examination prerequisites for teacher certification. Alicia Sneed, director of legal services, and Robert Brown, director

of the Division of Professional Learning and Assessment, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, and 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

16 KAR 6:030. Examination prerequisites for principal certification.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3 through 6, and 8 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

STATE BOARD OF ELECTIONS: Forms and Procedures

31 KAR 4:130 & E. Facsimile transmission of the Federal Post Card Application and delivery of the absentee ballot for military, their dependents, and overseas citizens. Sarah Ball Johnson, executive director, and Kathryn Gabhart, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to clarify a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 2, 4, and 5 to comply with the drafting and format requirements of KRS Chapter 13A; and (4) to amend Section 4 to clarify that the application for voter registration or absentee ballot shall be valid for all elections that occur after the application is received until the next general election. Without objection, and with agreement of the agency, the amendments were approved.

31 KAR 4:140 & E. Electronic submission of the Federal Post Card Application and delivery of the absentee ballot for military, their dependents, and overseas citizens.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation,

as required by KRS 13A.220; (3) to amend Sections 2, 4, and 5 to comply with the drafting and format requirements of KRS Chapter 13A; (4) to amend Section 3(3) to specify that the clerk shall prepare a pdf-formatted copy of the original, blank absentee ballot; (5) to amend Section 1(5) to specify that the term, "registered voter," included dependents of a member of the military; and (6) to amend Section 2 to clarify that the application for voter registration or an absentee ballot shall be valid for all elections that occur after the application is received until the next general election. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Kentucky Retirement Systems: General Rules

105 KAR 1:370. Kentucky Retirement Systems Personnel Policies. Jennifer A. Jones, assistant general counsel, and Schuyler Olt, general counsel, represented the systems.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations; and (2) to amend Section 1 to clarify to whom the personnel policies shall apply. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:006. Repeal of 201 KAR 9:005. Lloyd Vest, general counsel, represented the board.

In response to a question by Senator Givens, Mr. Vest stated that 201 KAR 9:005 was being repealed because it was redundant. The statute already required compliance with American Medical Association standards, which included ethics standards for physicians.

Kentucky Real Estate Appraisers Board: Board

201 KAR 30:040. Standards of Practice. Larry Disney, executive director, and Jim Grawe, assistant attorney general, represented the board.

In response to a question by Representative Ford, Mr. Disney stated that this administrative regulation adopted the most recent uniform appraisal standards, which did not change substantively.

TOURISM, ARTS AND HERITAGE CABINET: Kentucky Department of

Fish and Wildlife Resources: Fish

301 KAR 1:201. Recreational fishing limits. Gerard L. Buynak, assistant director, and Catherine York, deputy general counsel, represented the department.

GENERAL GOVERNMENT CABINET: Department of Agriculture: Office of Consumer and Environmental Protection: Division of Environmental Services: Structural Pest Control

302 KAR 29:010. Definitions for 302 KAR Chapter 29. Steve Sims, Structural Branch manager, and Clint Quarles, staff attorney, represented the division.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting and format requirements of KRS Chapter 13A and to insert a citation. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 29:050. Commercial structural pest control and fumigation.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 7 and 11 to comply with the drafting and format requirements of KRS Chapter 13A; and (2) to amend Section 14 to incorporate by reference the consumer disclosure form. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 29:060. Certification.

In response to questions by Senator Givens, Mr. Sims stated that the amendments were expected to simplify the licensing process. The continuing education requirements were also changing to require more credit hours for certain licensees. Currently, the agency offered continuing education six (6) times per year, but was considering offering additional classes soon.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Mine Permits: Permits

405 KAR 8:010 & E. General provisions for permits. Mike Haines, general counsel; Allen Luttrell, director; and Michael Mullins, administrative regulation coordinator, represented the division. David Gooch, Coal Operators and Associates president, appeared in support of this administrative regulation.

In response to questions by Representative Ford, Mr. Luttrell stated that as a result of this administrative regulation, nineteen (19) new regu-

lators had been hired. \$89,000 had been recovered for permit fees.

In response to questions by Co-Chair Combs, Mr. Luttrell stated that 2010 House Bill (HB) 283, which raised fee limits, was drafted and passed on behalf of and after requests from the coal mining industry. HB 283 directly prompted the fee increases in this administrative regulation in order to improve the speed of permit processing. At the peak of the backlog, the division reported 185 delinquent permit processing requests outstanding. Since the emergency administrative regulation had been in effect, permit processing had steadily improved, and there were currently approximately eighty-five (85) delinquent permit processing requests outstanding. Slurry and other impoundment permit processing was time consuming because review consisted of two (2) federal oversight programs designed to minimize risk to workers' safety and structural failure. The 2001 Martin County coal slurry disaster was cited as an example of the importance of thorough permit review. In 2009 the division processed fifteen (15) impoundment permits. Since the emergency administrative regulation had been in effect, the division had processed thirty (30) impoundment permits.

Co-Chair Combs stated that industry requests for this fee increase were for the purpose of improving timely permit processing. House Bill 283 had been enacted by the General Assembly to help the coal mining industry. Co-Chair Combs requested that the division continue to improve timely permit processing without risking safety.

Mr. Gooch stated that the division's review and enforcement regarding this administrative regulation was currently adequate. The division worked closely with the coal mining industry to facilitate this administrative regulation, and the industry was pleased with the cooperation of state government.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correction citations; and (2) to amend Sections 2 through 6, 8, 9, 11, 12, 13, and 15 through 26 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY

CABINET: Kentucky Law Enforcement Council: Council

503 KAR 1:110 & E. Department of Criminal Justice Training basic training: graduation requirements; reports. Steve Lynn, assistant general counsel, represented the council.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, and 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Criminal Justice Training: General Training Provision

503 KAR 3:010. Basic law enforcement training course recruit conduct requirements; procedures and penalties.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to specify that the criminal history check must be conducted in the ninety (90) days before the recruit attends basic training; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 2 and 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

503 KAR 3:040. Telecommunications academy trainee requirements; misconduct; penalties; discipline procedures.

In response to a question by Senator Givens, Mr. Lynn stated that this administrative regulation required good hygiene and prohibited excessive perfume and cologne because the academy space was very limited and there had been numerous complaints.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to specify that the criminal history check shall be conducted in the ninety (90) days before the trainee attends the academy; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1, 3, 4, 6, and 10 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agree-

ment of the agency, the amendments were approved.

503 KAR 3:110. Certified Court Security Officers academy trainee requirements; misconduct; penalties; discipline procedures.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to specify that the criminal history check shall be conducted in the ninety (90) days before the trainee attends the academy; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1, 3, 4, and 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Office of Audits: Division of Road Fund Audits: Division of Motor Carriers

601 KAR 1:201. Recordkeeping and audit requirements of taxes imposed in KRS 138.655 through 138.7291. Ann D'Angelo, assistant general counsel, and Randall Royer, road fund audit director, represented the division.

Senator Pendleton stated that requirements on the Division of Motor Carriers Web site had not been updated since April of 2009 and citations had been issued as a result of confusion regarding which standards were in effect. Ms. D'Angelo agreed to ensure that the Division's Web site was updated to current requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; and (2) to amend Sections 3 and 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Workforce Investment: Office of Employment and Training: Employment Services

787 KAR 2:020. Confidentiality of records of the Office of Employment and Training. Clay Lamb, staff attorney, and Jeff Gatewood, program lead, represented the office.

A motion was made and seconded to approve the following amend-

ments: to amend Sections 1 through 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

LABOR CABINET: Department of Workplace Standards: Division of Occupational Safety and Health Compliance: Occupational Safety and Health

803 KAR 2:300. General. Kristi Redmon, Occupational Safety and Health standards specialist, represented the division.

In response to questions by Representative Damron, Ms. Redmon stated that these administrative regulations were not more stringent than federal requirements. The division could not simply reference the federal regulations because only certain standards were updated.

In response to questions by Representative Ford who agreed with Representative Damron that referencing the federal regulation would be a more efficient way of keeping the administrative regulations up-to-date with federal requirements, Ms. Redmon stated that these administrative regulations did not change compliance requirements for industry stakeholders.

A motion was made and seconded to approve the following amendment: to amend the RELATES TO paragraph to correct a citation. Without objection, and with agreement of the agency, the amendment was approved.

803 KAR 2:306. Occupational health and environmental controls.

A motion was made and seconded to approve the following amendment: to amend Section 3(6)(a) to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

803 KAR 2:308. Personal protective equipment.

803 KAR 2:316. Welding, cutting, and brazing.

803 KAR 2:320. Toxic and hazardous substances.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 3, and 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

803 KAR 2:425. Toxic and hazardous substances.

803 KAR 2:500. Maritime employment.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Office of Mine Safety and Licensing: Miner Training, Education and Certification

805 KAR 7:020. Training and certification of inexperienced miners. Amy Denham, executive secretary; Johnny Greene, executive director; and Michael Mullins, administrative regulation coordinator, represented the office.

A motion was made and seconded to approve the following amendment: to amend Section 1(1) to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Sanctions and Penalties

805 KAR 8:060. Criteria for the imposition and enforcement of sanctions against licensed premises.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Housing, Buildings and Construction: Division of Heating, Ventilation and Air Conditioning: Heating, Ventilation, and Air Conditioning Licensing Requirements

815 KAR 8:100. Criteria for local jurisdiction HVAC programs. Dawn M. Bellis, general counsel; Timothy R. House, acting director of HVAC and director of the Division of Plumbing; and Richard Moloney, commissioner, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS Chapter 13A.220; and (3) to amend Sections 1 through 11 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Plumbing: Plumbing

815 KAR 20:020. Parts or materials list.

A motion was made and second-

ed to approve the following amendment: to amend Section 5(20)(h) to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: State Health Plan

900 KAR 5:020. State Health Plan for facilities and services. Carrie Banahan, executive director, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to change the edition date of the material incorporated by reference and correct the agency name; and (2) to amend the material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Certificate of Need

900 KAR 6:020. Certificate of need application fees schedule.

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

Department for Aging and Independent Living: Division of Quality Living: Aging Services

910 KAR 1:240. Certification of assisted-living communities. Rebel Baker, branch manager; Shirley Eldridge, internal policy analyst III; and Phyllis Sosa, assistant director, represented the division.

In response to questions by Representative Damron, Ms. Sosa stated that the division worked with Representative Susan Westrom to draft this administrative regulation in compliance with 2010 House Bill 444, which Representative Susan Westrom sponsored. There was not opposition during the public hearing and public comment period.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1 and 8 to comply with the drafting and format requirements of KRS Chapter 13A. Without

objection, and with agreement of the agency, the amendments were approved.

Other Business: Staff apprised Subcommittee members that staff assistant, Jennifer Beeler, would be transferring from the Administrative Regulation Review Subcommittee to the Transportation Committee. Staff and Subcommittee members thanked Ms. Beeler for her service.

The following administrative regulations were deferred to the September 14, 2010, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Veterinary Examiners: Board

201 KAR 16:030 & E. License, renewal notice, exemption.

TOURISM, ARTS AND HERITAGE CABINET: Office of the Secretary: Office

300 KAR 2:040. Kentucky Film Industry Incentives Application and Fees.

Department of Parks: Parks and Campgrounds

304 KAR 1:040. Campgrounds. Catherine York, deputy general counsel, and Sam Devine, customer service director, represented the department.

In response to questions by Representative Ford, Ms. York stated that this administrative regulation was necessary to clarify that joyriding in a nonlicensed motorized vehicle on a state campground was prohibited, except for those used by mobility-impaired persons. Mr. Devine stated that there had been near accidents and numerous complaints. Ms. York stated that this did not affect areas like the Daniel Boone National Forest because it was outside the jurisdiction of a state campground. A state campground consisted of an area within a state park where camping facilities were available and that is located after a post where a prospective camper paid for camping privileges.

In response to a question by Senator Pendleton, Ms. York stated that the intent of this administrative regulation was to allow entry and exit of nonlicensed motorized vehicles but to prohibit joyriding within the campground.

In response to questions by Co-Chair Tori, Ms. York stated that golf carts were included in the category of a nonlicensed motorized vehicle. Some campgrounds were too small to facilitate traffic from nonlicensed motorized vehicles. Those persons

who did not qualify as mobility impaired but who had a statement from a physician indicating a mobility difficulty, temporary or permanent, would also qualify to use a nonlicensed motorized vehicle within a state campground.

Senator Pendleton requested that the agency further amend this administrative regulation to clarify what constituted joyriding, which vehicles were included in the category of nonlicensed motorized vehicles, and what options were available for golf cart usage.

Co-Chair Combs requested that the agency examine and consider eliminating redundancy with this administrative regulation and other existing laws.

A motion was made and seconded to defer this administrative regulation in order to amend it to clarify the agency's intent. Ms. York stated that the department would agree to defer this administrative regulation. Without objection, and with agreement of the agency, the motion was approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: Department of Education: School Administration and Finance

702 KAR 3:246. School council allocation formula: KETS District Administrative System Chart of Accounts.

Pupil Transportation

702 KAR 5:110. Vocational pupils, reimbursement for.

Office of Instruction

704 KAR 3:305. Minimum requirements for high school graduation.

PUBLIC PROTECTION CABINET: Kentucky Horse Racing Commission: Quarter Horse, Appaloosa and Arabian Racing

811 KAR 2:020 & E. Licensing quarter horse, appaloosa or arabian racing.

811 KAR 2:140 & E. Licensing of racing associations.

Department of Housing, Buildings and Construction: Division of Plumbing

815 KAR 20:100. Joints and connections. Dawn M. Bellis, general counsel; Timothy R. House, director of the Division of Plumbing; and Richard Moloney, commissioner, represented the division.

Mr. House stated that the department wanted to defer consideration of this administrative regulation. Without objection, upon

request of the division, the administrative regulation was deferred to the September 14, 2010 meeting of the Subcommittee.

The subcommittee adjourned at 2 p.m. until September 14, 2010.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

August 10, 2010

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, August 10, 2010, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Elizabeth Tori; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Guests: David Gayle, Lynda Robertson, Paula Woodworth, Kathy Burke, Steve Davis, Paula Goff, Charlie Harman, Michael Dailey, John Davies, Talina Mathews, Paul Brooks, Len Peters, Emily Shelton, Peggy Stratton, Robert Lewis, Jamie Byrd, Andrew Hartley and Anne Chaney.

LRC Staff: Kim Eisner, Matt Ross and Becky Brooker.

A motion was made by Representative Yonts to approve Minutes of the July 2010 meeting of the committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items on the deferred list and items selected for further review by members of the committee. Senator Carroll 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 on the deferred list and items selected for further review by members of the committee. Senator Carroll 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 on the deferred list and items

selected for further review by members of the committee. Senator Carroll 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 on the deferred list and items selected for further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Senator McGaha to defer the following items from the Personal Service Contract List to the September 2010 meeting of the committee: 1000001529, Best Buddies International; 1000001633, Woodlake Institute for Human Services; 1000001668, National Toxicology Specialist Incorporated; 1000004171, AIT Laboratories; 101118, Great Big Shows. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Senator McGaha to defer the following item from the Personal Service Contract Amendment List to the September 2010 meeting of the committee: 08000008195, Education Innovations, LLC. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Senator McGaha to defer the following item from the Personal Service Contract for \$10,000 & Under List to the September 2010 meeting of the committee: 101117, The National Center for Drug Free Sport Incorporated. Representative Horlander seconded the motion, which passed without objection.

AUGUST 2010 DEFERRED LIST ITEMS:

A motion was made by Senator McGaha to disapprove the following contract with The Kentucky Lottery Corporation: 1107057, Right Star Systems due to the vendor currently being a non-registered foreign corporation with the Secretary of State. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Senator McGaha to disapprove the following contract with Eastern Kentucky University: 12-016, World Instructor Training Schools due to the vendor currently being a non-registered foreign corporation with the Secretary of State. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Senator McGaha to disapprove the following contract with The Department of Fish and Wildlife: 10000014555, The Student Conservation Association Incorporated due to the vendor currently being a non-registered foreign corporation with the Secretary of State. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Senator McGaha to defer the following Routine Personal Service Contract items from the Deferred Contract List to the September 2010 meeting of the committee: 11-WRD-001, Ward Group, 11-013; University Accounting Service, LLC; 1000002568, Property Service Group Southeast Incorporated; 1000002594, CEI Appraisal Group Incorporated. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Senator McGaha to defer the following Personal Service Contracts for \$10,000 and Under items from the Deferred Contract List to the September 2010 meeting of the committee: 12-018, Timothy L. Warner Incorporated; 11-07-075, Eyeland Studio Incorporated. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Senator McGaha to approve the following contract from The Kentucky Lottery Corporation: 11-04-073, Orderpad Software Incorporated. Representative Montell seconded the motion, which passed without objection.

A motion was made by Senator McGaha to approve the following contract from The University of Kentucky: K11-131, Touchpoint Associates. Representative Montell seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS

WERE REVIEWED WITHOUT OBJECTION:

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

Alexander Thompson Arnold, PLLC, 1100000244; Christian Sturgeon & Associates, PSC, 1100000245; Blue & Company, LLC, 1100000246; Kem Duguid & Associates, PSC, 1100000247; Morgan Franklin, LLC, 1100000248; Mountjoy Chilton Medley, LLP, 1100000249; Ray, Foley, Hensley & Company, PLLC, 1100000250; Ross & Company, PLLC, 1100000251; Teddy Michael Prater, CPA, PLLC,

1100000252.

CABINET FOR HEALTH AND FAMILY SERVICES:

Trover Foundation Incorporated, 1000002188; St. Claire Medical Center, 1000002189.

COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS:

University of Louisville Hospital Brown Cancer Center, 1000001855; University Medical Associates, 1000002504.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Concentra Laboratory, LLC, 1000002597.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Center for Comprehensive Services Incorporated, 1000001924.

DEPARTMENT FOR BUSINESS DEVELOPMENT:

Arch Chemicals Incorporated, 1100000384.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Family & Children First, 1000001921.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Amanda Lea Yeary, 1000003659.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Homeless & Housing Coalition of Kentucky, 1000001527; Project Unite, 1000001576.

DEPARTMENT FOR INCOME SUPPORT:

Julie B. Jones, 1000003250; Carlos Hernandez, 1000003306; James T. Ramsey, 1000003307; Lisa D. Beihn, 1000003308; Amanda Lange, 1000003665; Larry Freudenberg, 1000003666; Humildad T. Anzures, 1000003667; Ann L. Hess, 1000003668; Jo Anne Sexton, 1000003669; R. Kendall Brown, 1000003670; Carlos Hernandez, 1000003671; James T. Ramsey, 1000003672; Sudhideb Mukherjee, 1000003673; Jan Jacobson, 1000003674; Anna L. Demaree, 1000003675; Jay E. Athy, 1000003676; Edward A. Ross, Jr., 1000003677; Diosdado Irlandez, 1000003678; Dan K. Vandivier, 1000003679; Ed Stodola, 1000003680; Alexis M. Guerrero, 1000003681; David S. Swan, 1000003682; Bryan A. Loy, 1000003683; Timothy H. Gregg, 1000003684; Ilze A. Sillers, 1000003685; M. Allen Dawson, 1000003686; Jane F. Brake,

1000003687; Parandhamulu Saranga, 1000003688; Lea J. Perritt, PhD, 1000003689; Mary Thompson, PhD, 1000003690; Dr. William Underwood, 1000003691; Dr. Gus A. Bynum, 1000003692; Bruening & Associates, 1000003693; Marina T. Yarbro, 1000003694; Lisa D. Beihn, 1000003695; Maureen W. Khalil, MD, 1000003696; Lynn A. Rosenzweig, Psy D, 1000003697; John I. Gedmark, 1000003698; Thompson H. Prout, 1000003699; Dennis B. Penn, 1000003700; Laura M. Cutler, 1000003701; Laboratory Corporation of America Holdings, 1000003976; Policy Studies Incorporated, 1000003998; John M. Reed, MD, 1000004035; W. Douglas Back, 1000004037.

DEPARTMENT FOR MEDICAID SERVICES:

Myers & Stauffer, LC, 1000001077; University Health Care Incorporated, 1000001087; Multi, 1000001099.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

ARC of Kentucky Incorporated, 1000001364; Multi, 1000001638; Guardian Healthcare Providers, 1000002391; New Beginnings Bluegrass Incorporated, 1000002772; Susan Mudd, 1000004011; Hillaree M. Needy, 1100000067.

DEPARTMENT FOR PUBLIC HEALTH:

Jane Mobley Associates, 1000001669; Health Kentucky, 1000001953; Kentucky Hospital Research & Education Foundation, 1000001961; University of Louisville Hospital, 1000001967; Stephen Gobel, DDS, 1000002216; Family & Children First, 1000003845.

EASTERN KENTUCKY UNIVERSITY:

Norciva Shumpert, 12-022; Nancy Batson, 12-023.

ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:

Kentucky Science & Technology Corporation, 1000004184; Kentucky Science & Technology Corporation, 1000004202.

EDUCATION, DEPARTMENT OF:

ACT, Incorporated, 1000002462; Sarah Hill, 1000002676; Jewe S. Jee, 1000002832; Paula E. Goff, 1000002995; Multi, 1000003005; Multi, 1000003009; Multi, 1000003010; National Center for Family Literacy, 1000003014; Multi, 1000004223; Learning Point Associates, 1100000115.

FINANCE AND ADMINISTRATION

TION CABINET:

Frost Brown Todd, LLC, 1000003791; Bond Logistix, 1000003919; Frost Brown Todd, LLC, 1000003944; Blue & Company, 1000004030; Vanantwerp, Monge, Jones, Edwards & McCann, LLP, 1000004105; Peck, Shaffer & Williams, LLP, 1000004113; The Bank of New York Trust Company, 1000004114; Multi, 1100000187.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

HMB Professional Engineers Incorporated, 1000001609; Multi, 1100000432.

FINANCIAL INCENTIVES, DEPARTMENT OF:

Kentucky Science & Technology Corporation, 1000004213.

INFRASTRUCTURE AUTHORITY:

Kentucky Rural Water Associates, 1000004233.

JUSTICE CABINET:

Hurt Crosbie & May, 1000003878; Kimberly Hoagland Morris, Attorney-At-Law, 1000003957; Donald L. Jones, Attorney-At-Law, 1000003958; Stoll Keenon Ogden PLLC, 1000004147; McBrayer McGinnis Leslie & Kirkland, 1000004161; Fulkerson & Kinkel, PLLC, 1000004163; Regional Medical Center, 1000004183; St. Elizabeth Medical Center, 1000004200.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Jobs for the Future, 449; SCATE Incorporated, 452.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:

Dinsmore & Shohl, LLP, 11-008.

KENTUCKY HOUSING CORPORATION:

The Inspection Group Incorporated, 2011-18; Mountain Association for Community Economic Development Incorporated (MACED), 2011-22.

KENTUCKY LOTTERY CORPORATION:

Software Information Systems, LLC, 11-10-053.

KY HORSE RACING AUTHORITY:

McBrayer McGinnis Leslie & Kirkland, 1100000085.

KY PUBLIC SERVICE COMMISSION:

BBC Research & Consulting, 1000003734; DLZ Kentucky Incorporated, 1000003738; Jason Associates Corporation, 1000003741; MSB Energy Associates Incorporated,

1000003742.

LIBRARIES & ARCHIVES, DEPARTMENT FOR:

Saroj Ghoting, 1000004142; Lauren Burnett, 1000004143; Nelda Moore, 1000004145; Judith A. Gibbons, 1000004146.

MILITARY AFFAIRS, DEPARTMENT OF:

Timothy D. Law, 1100000068; Family Dynamics Behavioral Health Care PLLC, 1100000076.

NORTHERN KENTUCKY UNIVERSITY:

Lisa Keaton, 2012-554; Schoepf Associates, 2012-555.

OFFICE OF HOMELAND SECURITY:

Goldberg & Simpson PSC, 1000004121.

PERSONNEL-OFFICE OF THE SECRETARY:

Multi, 1000002769.

PHARMACY, BOARD OF:

McBrayer McGinnis Leslie and Kirkland, 1100000189.

POST SECONDARY EDUCATION, COUNCIL ON:

John A. Muffo & Associates Incorporated, 1000002434.

TOURISM DEVELOPMENT CABINET:

Dinsmore & Shohl LLP, 1000003784; Hunden Strategic Partners, 1000004201.

TRANSPORTATION CABINET:

Tammy L. Barnes, 1000002558; Thurston Freeman, 1000002605; Belinda Shouse d/b/a Brandis Incorporated, 1000002648; Henry Watz Gardner & Sellars, PLLC, 1000002855; Strand Associates Incorporated, 1000003336; Lee Engineering, LLC, 1000003573; In-tequal Incorporated, 1000003904; URS Corporation, 1000004203; Burgess and Niple Incorporated, 1000004221; Palmer Engineering Company, 1000004222; J M Crawford and Associates Incorporated, 1000004236; GRW Engineers Incorporated, 1100000003; American Engineers Incorporated, 1100000006; QK4, 1100000191; Burgess & Niple Incorporated, 1100000206.

TRAVEL, DEPARTMENT OF:

Access Marketing, 1000003782.

TURNPIKE AUTHORITY OF KENTUCKY:

McElroy Mitchell & Associates, LLP, 2010-1.

UNIVERSITY OF KENTUCKY:

Hewitt Associates Public Sector Consulting, LLC, K11-143; Phoenix Business Incorporated, K11-144; LeapFrog Interactive, K11-145; Hensley, Elam & Associates, K11-

146; Cincinnati Bell Technology Solutions, K11-147; Deloitte Tax, LLP, K11-148; Witt / Kieffer, K11-149; Software Information Systems Incorporated, K11-150; Artifex Technology Consulting, K11-151; Bond, Schoeneck & King, PLLC, K11-152; Horizon Engineering, K11-153; Jerold Panas, Linzy & Partners, K11-154; EnduraCare Acute Care Services, LLC, K11-155; Marshall Emergency Services Associates, PSC, K11-156; My Giving Advisor, LLC, K11-157; Shield Environmental Associates Incorporated, K11-158.

UNIVERSITY OF LOUISVILLE:

Environmental Health Management, 11-011; Cannon Design Incorporated, 11-025; Staggs & Fisher Consulting Engineers, 11-031; L'Acquis Consulting Enterprises d/b/a LSE Engineering Incorporated, 11-032; CMTA Consulting Engineers Incorporated, 11-033; James E. Forst & Associates, 11-034; Luckett & Farley Incorporated, 11-035; Three I Engineering Incorporated, 11-036; Gil Stein & Associates Architects, 11-039; Luckett & Farley, 11-040; JRA Architect Incorporated, 11-041; Hoehler Incorporated, 11-042; Forza Architecture, 11-043; Arrasmith, Judd, Rapp, Chovan Incorporated, 11-044; Sherman Carter Barnhart Incorporated, 11-045; Omni Architects, 11-046; Voelker, Blackburn, Niehoff Architects, 11-047; Sessler, Campbell & Associates Incorporated, 11-048; HDR Engineering Incorporated, 11-049; Dunaway Engineering Incorporated, 11-050; Greenbaum Associates Incorporated, 11-051; Bravura Incorporated, 11-052.

WESTERN KENTUCKY UNIVERSITY:

DCSTEAM Incorporated d/b/a row 27 Studios, 101109; Hitcents.com, 101111; Contemporary Service Corporation, 101112; CMS Publishing Incorporated d/b/a R&R Newkirk Company, 101113; Ross Tarrant Architects, 101116; Multi, 101217; Attain, LLC, 101218; Taylor Whitney Architects, 101219.

WORKER'S COMPENSATION FUNDING COMMISSION:

Sawgrass Asset Management, 1000002715; Galliard Capital / Wells Fargo Trust Operations, 1000002756; Ryan Labs Incorporated, 1000002758; Sage Advisory Service, 1000002761.

WORKFORCE INVESTMENT, OFFICE OF:

Seven Counties Services, 1000003147; Comprehend Incorpo-

rated, 1000003153; Robyn O'Neal, 1000003159; Thinking Media, 1100000165.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS

WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Camp Dresser and McKee, 0600002008; Tetra Tech Incorporated, 0600002009; Jackson Purchase Resource Conservation & Development, 0900011635; Stantec Consulting Services Incorporated, 1000001351.

DEPARTMENT FOR NATURAL RESOURCES:

ATC Associates Incorporated, 1000002337.

DEPARTMENT OF INSURANCE:

Anthem Health Plans of Kentucky Incorporated, 0800009195.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Barnette Bagley Architects, 0700003256; Arrasmith Judd Rapp Chovan Incorporated, 0700003482; Luckett & Farley Architects Engineers & Construction Managers Incorporated, 1000000498; John L. Carman & Associates Incorporated, 1000001693; Ross Tarrant Architects Incorporated, C-06082726.

HIGHER EDUCATION ASSISTANCE AUTHORITY, KENTUCKY:

Strothman & Company, PSC, 1000003762; Strothman & Company, PSC, 1000003763.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:

Strothman & Company, PSC, 11-006.

KY HORSE RACING AUTHORITY:

Stoll Keenon Ogden, PLLC, 1000000941.

MEDICAL LICENSURE, BOARD OF:

Multi, 1000002739.

OFFICE OF HOMELAND SECURITY:

RCC Consultants Incorporated, 0900011815.

PERSONNEL-OFFICE OF THE SECRETARY:

Cannon Cochran Management Services Incorporated, 1000003240.

PUBLIC PROTECTION & REGULATION CABINET:

Vaughn Murphy, PLLC, 1000000863; Mike Wilson, 1000000864; William W. Trude Jr., 1000000865.

TRANSPORTATION CABINET:

QK4, 0600002874; URS Corporation, 0700004076; PB Americas Incorporated, 0800010092; Advanced Risk Management Techniques, 1000001383; Entran, PLC, 1000003587; GRW Engineers Incorporated, C-01125603-2; Thurston Freeman, C-04083584-1; Florence and Hutcheson, C-99005084-5.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

CABINET FOR HEALTH AND FAMILY SERVICES:

University of Kentucky, Kentucky Telecare, 1000003973; University of Louisville, 1000003984.

COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS:

University of Kentucky Research Foundation, 1000003406; University of Kentucky Research Foundation, 1000003495; Eastern Kentucky University Training Resource Center, 1000003526.

CORRECTIONS, DEPARTMENT OF:

University of Kentucky Research Foundation, 1000003386.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Eastern Kentucky University, 1000004176.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Kentucky River Community Care, 1000002091.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Administrative Office of the Courts, 1000001932; Kentucky Housing Corporation, 1000003165; Big Sandy Area Development District, 1000004002; NKCAC Incorporated, 1000004003; Buffalo Trace Area Development District, 1000004004; Central Kentucky Community Action Council, 1000004005; Community Action of Southern Kentucky Incorporated, 1000004006; Cumberland River Regional Mental Health Mental Retardation Board, 1000004007; Northeast Kentucky Area Development, 1000004008; Green River Area Development District, 1000004009; Lake Cumberland CSP Incorporated, 1000004010; Pennyrile Allied Community Services Incorporated, 1000004012; Seven Counties Services, 1000004013; Foothills Community Action, 1000004014; Foothills Community Action, 1000004015; Foothills Community Action, 1000004016; Kentucky River Area Development District, 1000004017; Licking Valley Community Action

Agency, 1000004018; Pennyrile Allied Community Services Incorporated, 1000004019.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

UK Research Foundation, 1000003622; Madison County Fiscal Court, 1000003712; University of Kentucky Research Foundation, 1100000071.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Jefferson County Board of Education, 1000001675; Multi, 1000001676; Multi, 1000001681; Murray State University, 1000003129.

DEPARTMENT FOR MEDICAID SERVICES:

Multi, 1000001186; Department of Education, 1000001504.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Office of Vocational Rehabilitation, 1000001365; Seven Counties Services, 1000001368; Northern Kentucky Regional Mental Health Mental Retardation Board, 1000001385; Pennyroyal Regional Mental Health Mental Retardation Board, 1000001387; Seven Counties Services, 1000001389; Green River Regional Mental Health Mental Retardation Board, 1000001474; Kentucky Department of Corrections, 1000001570; Cabinet for Workforce Development, 1000001571; Kentucky Housing Corporation, 1000001573; Four Rivers Behavioral Health, 1000001651; Pennyroyal Mental Health, 1000001652; Green River Regional Mental Health Mental Retardation Board, 1000001653; Lifeskills Incorporated, 1000001654; Communicare Incorporated, 1000001655; Seven Counties Services, 1000001656; Northern Kentucky Regional Mental Health Mental Retardation Board, 1000001657; Comprehend Incorporated, 1000001658; Pathways Incorporated, 1000001659; Mountain Comp Care Center, 1000001660; Kentucky River Community Care, 1000001661; Cumberland River Mental Health Mental Retardation Board Incorporated, 1000001662; Lake Cumberland Mental Health Mental Retardation Board, 1000001663; Bluegrass Regional Mental Health Mental Retardation, 1000001664; Bluegrass Regional Mental Health Mental Retardation, 1000001665; Bluegrass Regional Mental Health Mental Retardation,

1000001666; Kentucky River Community Care, 1000001667; Alcoholic Beverage Control Department, 1000001689; Division of Mental Health, 1000001692; Louisville/Jefferson County Metro Govt-Department of Public Health/Wellness, 1000001698; Pennyroyal Regional Mental Health Mental Retardation Board, 1000001951; Seven Counties Services, 1000002192; Seven Counties Services, 1000002193; Pennyroyal Mental Health, 1000002455; University of Kentucky Research Foundation, 1000003584.

DEPARTMENT FOR NATURAL RESOURCES:

Anderson County Conservation District, 1000002407.

DEPARTMENT FOR PUBLIC HEALTH:

Bluegrass Regional Mental Health Mental Retardation, 1000001714; Comprehend Incorporated, 1000001715; Kentucky River Community Care, 1000001719; Adanta Group, 1000001720; Mountain Comprehensive Care Center, 1000001722; North Key Community Care, 1000001732; Pennyroyal Mental Health, 1000001733; Seven Counties Services, 1000001734; Lincoln Trail Area Development District, 1000001756; Cumberland River Regional Mental Health Mental Retardation Board, 1000001848; Commonwealth of Kentucky Personnel Cabinet, 1000002580; Wyatts Supermarket Incorporated, 1000002999; Moran Foods Incorporated, 1000003003; University of Kentucky Research Foundation, 1000003552; Western Kentucky University, 1000003557; University of Kentucky Research Foundation, 1000003594; U of L Research Foundation, 1000003619; University of Kentucky Research Foundation, 1000003704; U of L Research Foundation, 1000003839; University of Kentucky Research Foundation, 1000003842; U of L Research Foundation, 1000003921; University of Kentucky Research Foundation, 1000003926; University of Kentucky, 1000003991; University of Kentucky Research Foundation, 1000004025; University of Kentucky Research Foundation, 1000004036; University of Kentucky Research Foundation, 1000004064; U of L Research Foundation, 1000004082; University of Louisville Research Foundation, 1000004094; Murray State University, 1000004097; Western Kentucky University, 1000004098; University of Kentucky Research

Foundation, 1000004099; U of L Research Foundation, 1000004102; University of Kentucky Research Foundation, 1000004103; U of L Research Foundation, 1000004106; University of Kentucky Research Foundation, 1000004107; University of Kentucky Research Foundation, 1000004112; University of Kentucky Research Foundation, 1000004116; University of Kentucky Research Foundation, 1000004120; University of Kentucky Research Foundation, 1000004130; University of Kentucky Research Foundation, 1000004134; University of Kentucky Research Foundation, 1000004168; University of Kentucky Research Foundation, 1000004230; University of Louisville Research Foundation, 1000004232.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

Jackson Energy Cooperative, 1000001891; Owen Electric Coop Incorporated, 1000001892; Nolin Rural Electric Cooperative Corporation, 1000001895; University of Kentucky Research Foundation, 1000003736; Ecopower Generation LLC, 1000004186; University of Kentucky Research Foundation, 1000004191; University of Kentucky Research Foundation, 1000004192; University of Kentucky Research Foundation, 1000004193; Paducah Uranium Plant Asset Utilization, Inc., 1000004196; Platform Energy Group LLC, 1000004198; Cedar Incorporated, 1000004214; University of Kentucky Research Foundation, 1000004216.

DEPARTMENT OF WORKPLACE STANDARDS:

University of Kentucky Health, 1100000233.

EDUCATION, DEPARTMENT OF:

Bullitt County Board of Education, 1000002609; Clinton County Board of Education, 1000002639; Lawrence County Board of Education, 1000002721; Middlesboro Independent Board of Education, 1000002735; Eastern Kentucky University, 1000003376; Larue County Board of Education, 1000003500; NKU Research Foundation, 1000003528; Jessamine County Board of Education, 1000003735; Bath County Board of Education, 1000003785; Northern Kentucky Research Foundation, 1000003936; Madison County Board of Education, 1000003946; Western Kentucky University Research Foundation, 1000003959; University of Louisville Research Foundation, 1000003962; Eastern Kentucky University,

1000004000; Hart County Board of Education, 1000004135; Covington Independent Board of Education, 1000004136; Corbin Independent Board of Education, 1000004208; KCTCS, 1100000001; Bowling Green Independent Board of Education, 1100000041; Edmonson County Board of Education, 1100000139; Jessamine County Board of Education, 1100000146; Lewis County Board of Education, 1100000149; Livingston County Board of Education, 1100000150; Magoffin County Board of Education, 1100000151; McCreary County Board of Education, 1100000153; Muhlenberg County Board of Education, 1100000154; Newport Independent Board of Education, 1100000155; Powell County Board of Education, 1100000156; Trigg County Board of Education, 1100000161; Kentucky State University, 1100000181; Morehead State University, 1100000197; Murray State University, 1100000198; Northern Kentucky University Research Foundation, 1100000199; Western Kentucky University Research Foundation, 1100000205; University of Louisville Research Foundation, 1100000211; University of Kentucky, 1100000212; Monroe County Board of Education, 1100000221; Bracken County Board of Education, 1100000223; University of Louisville Research Foundation, 1100000228; Collaborative for Teaching & Learning, 1100000270; Elliott County Board of Education, 1100000271; Green River Regional Education, 1100000274; Kentucky Valley Educational Cooperative, 1100000276; Bullitt County Health Department, 1100000360; NKU Research Foundation, 1100000364.

FISH & WILDLIFE, DEPARTMENT OF:

Mammoth Cave Resource Conservation & Development Area Incorporated, 1000003059; Pulaski County Conservation District, 1000003080; Jackson Purchase Resource Conservation & Development Foundation, 1000003083; Licking River Valley Resource Conservation & Development Council, 1000003085.

INFRASTRUCTURE AUTHORITY:

Barren River Area Development, 1100000015; Big Sandy Area Development District, 1100000036; Bluegrass Area Development District, 1100000037; Buffalo Trace Area Development District, 1100000038; Cumberland Valley Area Development Incorporated, 1100000039;

Fivco Area Development District, 1100000040; Gateway Area Development District, 1100000044; Green River Area Development, 1100000046; Kentuckiana Regional Planning, 1100000047; Kentucky River Area Development Chamber of Commerce, 1100000050; Lake Cumberland Area Development District, 1100000051; Lincoln Trail Area Development District, 1100000053; Pennyryle Area Development District, 1100000057; Purchase Area Development District, 1100000059; Northern Kentucky Area Development District, 1100000078.

LIBRARIES & ARCHIVES, DEPARTMENT FOR:

Laurel County Public Library, 1100000022; Morgan County Fiscal Court, 1100000024; Campbell County Public Library, 1100000025; Carroll County Public Library, 1100000186; Elliott County Fiscal Court, 1100000193; Fleming County Public Library, 1100000195; Grant County Public Library, 1100000213; McCreary County Public Library, 1100000216; Menifee County Public Library, 1100000218; Bell County Public Library, 1100000227; Nelson County Public Library, 1100000231; Daviess County Public Library, 1100000236; Robertson County Public Library, 1100000242; Greenup County Public Library, 1100000257; Metcalfe County Public Library, 1100000258; Wolfe County Public Library, 1100000263; Lexington Public Library, 1100000267; Oldham County Public Library, 1100000275; Boyle County Public Library, 1100000282; Pulaski County Public Library, 1100000292; Clark County Public Library, 1100000356; Rowan County Public Library, 1100000359; Lawrence County Public Library, 1100000361; Lincoln County Public Library, 1100000362.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1000002374; UK Research Foundation, 1000004089.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Union County Fiscal Court, 1000003794; Pike County Fiscal Court, 1000003813; Union County Fiscal Court, 1000003824; City of Wickliffe, 1000003937; Breathitt County Fiscal Court, 1000003967; Breathitt County Fiscal Court, 1000003972; Breathitt County Fiscal Court, 1000003995; Perry County Fiscal Court, 1000004027; Lee County Fiscal Court, 1000004087; Lake Cumberland Area Develop-

ment District, 1000004180; Big Sandy Area Development District, 1000004182; Henry County Fiscal Court, 1000004185; Bluegrass Area Development District, 1000004199; Pike County Fiscal Court, 1100000064; Webster County Fiscal Court, 1100000123; City of Guthrie, 1100000163; City of Winchester, 1100000164; City of South Shore, 1100000194; City of Morgantown, 1100000301; City of Taylorsville, 1100000344; City of Russellville, 1100000419; City of Madisonville, 1100000444; City of Hickman, 1100000445; Hart County Fiscal Court, 1100000448; City of Winchester, 1100000467.

POST SECONDARY EDUCATION, COUNCIL ON:

Southern Regional Education Board, 1000003922.

STATE POLICE, DEPARTMENT OF:

Seven Counties Services, 1100000086; MADD Kentucky State Office, 1100000089.

TOURISM DEVELOPMENT CABINET:

Multi, 1000003576.

TRANSPORTATION CABINET:

Kentucky Transportation Center, 1000003458; Eastern Kentucky University, 1000003624; Eastern Kentucky University, 1000003645; University of Kentucky Research Foundation, 1000003727; Kentucky State University, 1000003747; University of Kentucky Research Foundation, 1000003749; University of Kentucky Research Foundation, 1000003753; Kentucky Department of Corrections, 1000003907.

WORKFORCE INVESTMENT, OFFICE OF:

UK Research Foundation, 1000003157; Eastern Kentucky University, 1000003764; Eastern Kentucky University, 1000003836; Disability Resource Initiative Incorporated, 1000004001.

THE FOLLOWING MEMORANDA OF AGREEMENT

AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

National Center for State Courts, 1000001124.

AGRICULTURE, DEPARTMENT OF:

Multi, 0900011602; Multi, 0900011666; Multi, 0900011722.

CORRECTIONS, DEPARTMENT OF:

Breckinridge County Jail, 1000003144.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Nature Conservancy, 0600000681; Jefferson County Board of Education, 0900011625; Ashland Independent Board of Education, 0900013063; Daviess County Public Schools, 0900013109; Elizabethtown Independent Schools, 0900013110; Floyd County Board of Education, 0900013112; Franklin County Public Schools, 0900013129; Jefferson County Public Schools, 0900013133; Lincoln County Board of Education, 0900013134; Montgomery County Board of Education, 0900013147; Owsley County Board of Education, 0900013149; Pike County Board of Education, 0900013150.

EDUCATION, DEPARTMENT OF:

Allen County Board of Education, 0900012803; Breckinridge County Board of Education, 0900012815; Garrard County Board of Education, 0900012822; Hickman County Board of Education, 0900012841; Fleming County Board of Education, 0900012842; Christian County Board of Education, 0900012958; SESC Educational Cooperative, 1000002323.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 0600000819; Multi, 0600000820; Multi, 0700004519; Multi, 0800007107; Multi, 0800007885; Multi, 0800007886; Multi, 0800008056; City of Murray, 0800010541; Multi, 0800011229; Multi, 0800011286; Multi, 0900011669; Multi, 1000000349; Multi, 1000000949.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Covington, 0600001635; City of Campbellsville, 0600003107; Greenup County Fiscal Court, 0700003153; City of Fulton, 0700003391; Bourbon County Fiscal Court, 0700003604; City of Manchester, 0700003617; Henderson County Fiscal Court, 0700003811; Henderson County Fiscal Court, 0700003833; Henderson County Fiscal Court, 0700003838; Knox Partners Incorporated, 0700003852; Knox Partners Incorporated, 0700003855; Community Ventures Corporation, 0700004319; City of London, 0700004511; Lee County Fiscal Court, 0700004610; Pike County Fiscal Court, 0700004850; Pike County Fiscal Court, 0700004897; Pike County Fiscal Court,

0700004899; City of Frankfort, 0700004967; McLean County Fiscal Court, 0700005013; Martin County Economic Authority, 0700005283; City of Clay, 0700005454; Perry County Fiscal Court, 0700005485; Perry County Fiscal Court, 0700005486; Pike County Fiscal Court, 0700005638; Pike County Fiscal Court, 0700005640; Henderson County Fiscal Court, 0700005770; Pike County Fiscal Court, 0700005777; Perry County Fiscal Court, 0700006178; Knott County Water & Sewer, 0700006197; Knott County Water & Sewer, 0700006261; Greenup County Fiscal Court, 0700006461; City of Sandy Hook, 0800006941; Hopkins County Fiscal Court, 0800007040; Pike County Fiscal Court, 0800007269; Pike County Fiscal Court, 0800007270; Pike County Fiscal Court, 0800008662; Pike County Fiscal Court, 0800008666; Pike County Fiscal Court, 0800008676; Pike County Fiscal Court, 0800008683; Pike County Fiscal Court, 0800008696; Pike County Fiscal Court, 0800008707; Pike County Fiscal Court, 0800008765; Pike County Fiscal Court, 0800008768; Pike County Fiscal Court, 0800008770; Pike County Fiscal Court, 0800008772; Pike County Fiscal Court, 0800008786; Pike County Fiscal Court, 0800008799; Pike County Fiscal Court, 0800008808; Pike County Fiscal Court, 0800008822; Pike County Fiscal Court, 0800008827; Pike County Fiscal Court, 0800008829; Pike County Fiscal Court, 0800008830; Pike County Fiscal Court, 0800008831; Pike County Fiscal Court, 0800008833; Pike County Fiscal Court, 0800008849; Martin County Fiscal Court, 0800010048; Knox County Board of Education, 0800010051; Union County Fiscal Court, 0800010372; Jackson County Fiscal Court, 0800010404; Menifee County Sheriff's Office, 0800010595; Martin County Fiscal Court, 0800010600; City of Wheatcroft, 0800010645; Fairview Independent Schools, 0800010724; Carter County Fiscal Court, 0800010760; Boyd County Public Schools, 0800010872; Floyd County Fiscal Court, 0800010904; City of Hazard, 0800010930; City of Hazard, 0800010938; City of Hazard, 0800010939; Perry County Fiscal Court, 0800010961; Perry County Fiscal Court, 0800010963;

Perry County Fiscal Court, 0800010964; Perry County Fiscal Court, 0800010969; Perry County Fiscal Court, 0800010970; Perry County Fiscal Court, 0800010971; Pike County Fiscal Court, 0800010989; Perry County Fiscal Court, 0800011020; Pike County Fiscal Court, 0800011025; Pike County Fiscal Court, 0800011031; Wolfe County Fiscal Court, 0800011079; Union County Fiscal Court, 0800011085; Martin County Fiscal Court, 0800011096; Carter County Fiscal Court, 0800011115; Carter County Fiscal Court, 0800011140; Rockcastle County Fiscal Court, 0800011148; Rockcastle County Fiscal Court, 0800011149; Floyd County Fiscal Court, 0800011150; Crittenden County Fiscal Court, 0800011153; Elliott County Fiscal Court, 0800011154; Rockcastle County Fiscal Court, 0800011160; Elliott County Fiscal Court, 0800011183; Bell County Fiscal Court, 0800011239; Rockcastle County Fiscal Court, 0800011246; Pineville Independent School System, 0800011293; Pineville Independent Schools, 0800011293; Rockcastle County Fiscal Court, 0800011295; Letcher County Fiscal Court, 0900011324; Union County Fiscal Court, 0900011371; Johnson County Fiscal Court, 0900011374; Pike County Fiscal Court, 0900011376; Pike County Fiscal Court, 0900011377; Pike County Fiscal Court, 0900011378; Pineville Independent School System, 0900011380; Menifee County Board of Education, 0900011495; Elliott County Board of Education, 0900011530; Elliott County Board of Education, 0900011530; Wolfe County Fiscal Court, 0900011549; Clay County Fiscal Court, 0900011556; Pike County Fiscal Court, 0900011591; Pike County Fiscal Court, 0900011592; City of Covington, 0900011659; Bell County Fiscal Court, 0900012450; Elliott County Fiscal Court, 0900012453; Elliott County Fiscal Court, 0900012455; Elliott County Fiscal Court, 0900012456; Morgan County Board of Education, 0900012482; Morgan County Board of Education, 0900012484; City of Corbin, 0900012486; Magoffin County Fiscal Court, 0900012526; Magoffin County Fiscal Court, 0900012527; Muhlenberg County Fiscal Court, 0900012559; Letcher County Fiscal Court, 0900012933; City of Gray-

son, 0900013025; Wolfe County Fiscal Court, 0900013153; Letcher County Fiscal Court, 0900013166; City of Sandy Hook, 1000000172; Lawrence County Fiscal Court, 1000000173; Wolfe County Fiscal Court, 1000000177; City of Dawson Springs, 1000000529; Carter County Fiscal Court, 1000000549; Martin County Fiscal Court, 1000000724; Martin County Fiscal Court, 1000000726; Letcher County Fiscal Court, 1000000745; Union County Fiscal Court, 1000000746; Ohio County Fiscal Court, 1000000748; Menifee County Fiscal Court, 1000000786; Letcher County Fiscal Court, 1000000870; Letcher County Fiscal Court, 1000000870; Breathitt County Board of Education, 1000001044; Letcher County Fiscal Court, 1000001048; Jackson Independent School District, 1000001071; Regional Technology Authority Incorporated, 1000001108; Knox County Fiscal Court, 1000001136; Johnson County Fiscal Court, 1000001219; Letcher County Fiscal Court, 1000001224; Floyd County Fiscal Court, 1000001229; City of Pikeville, 1000001388; City of Middlesboro, 1000001405; City of Middlesboro, 1000001406; City of Middlesboro, 1000001407; City of Middlesboro, 1000001408; Henderson County Fiscal Court, 1000001458; Green River Regional Independent Development Authority, 1000001489; Troublesome Creek Environmental Authority, 1000001492; Union County Fiscal Court, 1000001526; City of Olive Hill, 1000001640; MMRC Regional Industrial Development Authority, 1000001753; Laurel County Fiscal Court, 1000001755; Carter County Fiscal Court, 1000001763; Carter County Fiscal Court, 1000001764; Martin County Fiscal Court, 1000001767; Knox County Fiscal Court, 1000001768; Muhlenberg County Fiscal Court, 1000001776; Harlan County Fiscal Court, 1000001912; Muhlenberg County Fiscal Court, 1000001989; Muhlenberg County Fiscal Court, 1000001993; Muhlenberg County Fiscal Court, 1000001995; Muhlenberg County Fiscal Court, 1000002006; Muhlenberg County Fiscal Court, 1000002010; Muhlenberg County Fiscal Court, 1000002012; Muhlenberg County Fiscal Court, 1000002013; Muhlenberg County Fiscal Court, 1000002014; Muhlenberg County Fiscal Court, 1000002015; Muhlen-

berg County Fiscal Court, 1000002016; Muhlenberg County Fiscal Court, 1000002017; Muhlenberg County Fiscal Court, 1000002018; Muhlenberg County Fiscal Court, 1000002019; Muhlenberg County Fiscal Court, 1000002020; Muhlenberg County Fiscal Court, 1000002021; Floyd County Fiscal Court, 1000002027; Jackson County Fiscal Court, 1000002028; Martin County Economic Development Authority, 1000002152; Wolfe County Fiscal Court, 1000002236; Wolfe County Fiscal Court, 1000002237; Wolfe County Fiscal Court, 1000002238; Lee County Fiscal Court, 1000003017; Lee County Fiscal Court, 1000003020; Lee County Fiscal Court, 1000003035; Lee County Fiscal Court, 1000003039; Pike County Fiscal Court, 1000003061; Leslie County Fiscal Court, 1000003078; Union County Fiscal Court, 1000003090; Ashland Independent Board of Education, 1000003103; City of Williamsburg, 1000003126; City of Jackson, 1000003164; Letcher County Fiscal Court, 1000003400; Letcher County Fiscal Court, 1000003404; Letcher County Fiscal Court, 1000003453; Letcher County Fiscal Court, 1000003455; Muhlenberg County Fiscal Court, 1000003604; Union County Fiscal Court, 1000003606; Henderson County Fiscal Court, 1000003608; Floyd County Fiscal Court, 1000003610; Wolfe County Fiscal Court, 1000003611; Wolfe County Fiscal Court, 1000003612; Floyd County Fiscal Court, 1000003833; Breathitt County Fiscal Court, 1000003834; Leslie County Fiscal Court, M-04196858-2; City of Middlesboro, M-05284064-3; Letcher County Fiscal Court, M-06055506-1; Garrard County Fiscal Court, M-06105909-1; Letcher County Water & Sewer, M-06244009; Letcher County Water & Sewer, M-06244474.

POST SECONDARY EDUCATION, COUNCIL ON:
University of Kentucky,
1000003342.

THE FOLLOWING PERSONAL SERVICE CONTRACTS

WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Bellewood Presbyterian Home for Children Incorporated, 1000003643; Bellewood Presbyterian Home for Children Incorporated, 1000003644.

David Gayle, Lynda Robertson and Paula Woodworth discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed unanimously.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Audubon Area Community Services, 1000004065; Seven Counties Services Incorporated, 1000004066; Kentucky River Community Care, 1000004067; Presbyterian Child Welfare Agency, 1000004068; Sunrise Children's Services, 1000004069; Foothills Community Action, 1000004070; Licking Valley CAP, 1000004071; Community Action of Southern Kentucky Incorporated, 1000004072; Central Kentucky Community Action Council, 1000004073; Pennyriple Allied Community Services, 1000004074; KVC Behavioral Healthcare Kentucky, 1000004075; Lake Cumberland Community Action Agency, 1000004076; Foothills Community Action, 1000004237. David Gayle, Lynda Robertson and Paula Woodworth discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed unanimously.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Multi (Impact Plus), 1000001422. Kathy Burke discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

DEPARTMENT FOR PUBLIC HEALTH:

Multi, 1000002141. Steve Davis and Paula Goff discussed the contract with the committee. A motion was made by Senator McGaha to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

EDUCATION, DEPARTMENT OF:

Edvantia, 1100000116. Charlie Harman and Michael Dailey 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 unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACTS

AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR NATURAL RESOURCES:

Bowser Morner Incorporated, 1000001628. A motion was made by Representative Yonts to defer the contract to the September 2010 meeting of the committee due to there being no guests present to testify. Senator Tori seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDUM OF AGREEMENTS

WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

Center for Climate Strategies, 1000004197. John Davies, Talina Mathews, Paul Brooks and Len Peters discussed the contract with the committee. Emily Shelton from Boone County spoke against the contract. A motion was made by Representative Montell to disapprove the contract. Senator Tori seconded the motion, which passed with Representative Crenshaw electing to abstain (PASS).

TRANSPORTATION CABINET:

University of Kentucky Research Foundation, 1000003731. Peggy Stratton, Robert Lewis and Jamie Byrd 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 Representative Montell electing the abstain (PASS).

THE FOLLOWING MEMORANDUM OF AGREEMENT

AMENDMENT WAS SELECTED FOR FURTHER REVIEW:

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Lexington-Fayette Urban County Government, 1000000752. Andrew Hartley and Anne Chaney discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

OTHER BUSINESS

Per House Bill 387, the committee established an Invoice Form. Representative Yonts made a motion to approve the invoice form. Senator

McGaha seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 11:50 AM.

**JOINT MEETING
PROGRAM REVIEW AND
INVESTIGATIONS
COMMITTEE
AND
INTERIM JOINT COMMITTEE
ON
ECONOMIC DEVELOPMENT
AND TOURISM**

Minutes

August 17, 2010

Call to Order and Roll Call

The Program Review and Investigations Committee met on Tuesday, August 17, 2010, at 1:00 PM, in Room 154 of the Capitol Annex. This was a joint meeting with the Interim Joint Committee on Economic Development and Tourism, whose co-chair, Representative Eddie Ballard, called the meeting to order. The secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Senators Jimmy Higdon, Vernie McGaha, R.J. Palmer II, Joey Pendleton, Dan "Malano" Seum, Brandon Smith, and Katie Kratz Stine; Representatives Dwight D. Butler, Leslie Combs, Terry Mills, David Osborne, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

Guests: John Mok, Chief Executive Officer, Kenton County Airport Board and Tim Zeis, Chief Operating Officer, Cincinnati/Northern Kentucky International Airport; Eric Frankl, Executive Director, Blue Grass Airport; Charles Miller, Executive Director, Louisville International Airport; Steve Stevens, President, Northern Kentucky Chamber of Commerce; and Mary Bryan Hood, Director, and Mr. Dean Stanley, Chairman, Owensboro Museum of Fine Art.

LRC Staff: Greg Hager, Committee Staff Administrator; Rick Graycarek; Christopher Hall; Colleen Kennedy; Van Knowles; Lora Littleton; Sarah Spaulding; Cindy Upton; Stella Mountain, Committee Assistant.

**Kentucky's Airport Industry—
Issues and Challenges**

Senator Kerr said the issues and challenges facing Kentucky's airports are of great concern to the committee and the legislature. At the request of Senator Stine and Representative Palumbo, the Interim Joint Committee on Economic Development and Tourism and the Program Review and

Investigations Committee asked representatives from Kentucky's major airports to testify at today's meeting.

Senator Stine said the airports are a vital economic engine to the Commonwealth and thanked the co-chairs for opening dialogue on this issue.

Steve Stevens, President of the Northern Kentucky Chamber of Commerce, introduced the other members of the panel. Mr. Stevens said even with the downsizing of Delta Airlines, the Northern Kentucky airport is still an important generator of economic activity. The national economy is highly dependent on commercial aviation, which is directly or indirectly responsible for 5.2 percent of the gross domestic product (GDP) and represents 10.9 million jobs nationally. Aviation is critical in Kentucky. According to the Federal Aviation Administration (FAA), in December 2009, 5 percent of Kentucky's jobs were civil aviation-related with salaries averaging approximately \$31,000 and representing 5.3 percent of the state's GDP. According to a 2004 University of Cincinnati study, the Cincinnati/Northern Kentucky Airport (CVG) provided an annual net economic benefit of \$4.5 billion and supported over 50,000 local jobs. The presence of top notch air service with options is critical to economic development, and businesses consider air service a top factor in determining where they will locate. Robust air service is also critical on the international level. According to the Economic Development Cabinet, Kentucky is home to 394 international companies employing 72,581 people full-time. Northern Kentucky has many international businesses, many from Germany, England, and Japan. The CVG used to offer direct flights to Amsterdam and London—a major attractor of many of those firms. Since these flights are no longer offered, the ability to attract international companies is uncertain. Mr. Stevens said today's testimony will provide recommendations on making Kentucky more competitive and more attractive to air carriers to increase jobs.

Next, Mr. John Mok, Chief Executive Officer, Kenton County Airport Board at the Cincinnati/Northern Kentucky International Airport, presented an air service investment program to help Kentucky's commercial service airports compete with surrounding states. Mr. Mok said CVG's

influence on corporate site selection is evident with companies like Toyota, Ashland Oil, Dunhumby, GE Capital, and Fidelity. However, domestic seat capacity with network carriers is at its lowest level since 1991. Reducing air capacity increases air service competition resulting in communities competing against each other. New economic development tools are necessary to improve Kentucky's competitive advantage to attract and retain businesses.

Referring to a PowerPoint presentation, Mr. Mok noted that 33 of 51 airports surveyed by the Airports Council International-North America offer an incentive program for domestic air service, and 23 of 48 airports providing international air service offer incentive programs. During negotiations, once it is decided there is a market, carriers want to know the cost of doing business and what financial incentives are available.

Air service at CVG has decreased significantly. From 2005 to 2010, average weekday departures have gone from 670 to 225. The number of passengers has dropped from 22 million to 10 million; the number of nonstop domestic flights has decreased from 130 to 70, and the number of nonstop European destinations from five to one. Once a major connecting passenger hub, the CVG now services an equal number of local and connecting traffic. Two terminal concourses have been closed and thousands of airline employees have been laid off as a result. To increase air service, CVG is pursuing all avenues including identifying new air service opportunities with existing carriers, meeting with business and political leaders, seeking a diversified mix of domestic and international carriers, and improving customer service. Restoring lost international service is a priority as the ability to shorten travel time between international destinations is a distinct advantage in the global marketplace. With the loss of four European nonstop destinations in 2009, the ability to retain and attract international businesses is jeopardized. He noted that cities such as Pittsburgh, Portland and San Diego have invested millions in incentives to secure or retain international service citing hundreds of new jobs and an approximate \$100 million annual economic benefit from one direct transatlantic flight.

The targeted travel market segment must be considered in developing an air service investment program

as well as the program's value to the community. International air service offers the most economic benefit and requires the most resources. Historically CVG has proven there is local demand for transatlantic nonstop service; however, competition from cities that offer air service incentives makes it hard to complete. The implementation of an air service investment program for Kentucky's airports will create a level playing field.

Next, C.T. "Skip" Miller, Executive Director of the Louisville Regional Airport Authority, gave an overview of the airport's air service. Mr. Miller said the airport offers 92 commercial service flights daily by seven major airlines. There are 25 nonstop destinations, 17 of which service the top 20 destinations. The airport served 3.2 million passengers in 2009. The airport's main goal is enhancing access to destinations important to the business community. Business travel is the core component of the commercial airline industry. Mr. Miller said an example of good investment in aviation is United Parcel Service (UPS) who provides a significant economic benefit to the state through jobs, taxes, and the ability to attract other companies.

The airport's passenger air service development strategy is to create sustainable air service while focusing on new domestic nonstop service; particularly through expanded hub access as well as regional connections, and enhanced leisure options without sacrificing network carriers that support the business marketplace. Partnerships including one with the Louisville Chamber of Commerce have been formed to help build sustainable service. A successful air service development program has three essential ingredients: a well thought-out plan, sustainable service that is efficient and reliable, and buy-in through the community to help attract and promote service and reduce start up costs. He concluded by saying that today's economic climate has changed the face of air service.

Mr. Eric Frankl, Executive Director of Lexington Blue Grass Airport, said the airport serves approximately 1 million passengers a year, averaging 40 flights a day to 14 cities. He noted the impact an airport has on local business and stated air service is almost always a consideration by companies and site selectors when evaluating options. The airline industry has suffered from enormous

economic pressure since deregulation in 1978, resulting in many communities having decreased passenger service as a result. Mr. Frankl said the airport representatives before the committee today were there to seek help. He explained the impact of low fare airline service to a community. Lexington recently received a United States Department of Transportation Small Community Air Service Development Grant for \$600,000 with a local match of \$150,000 to attract a low fare service to Lexington to counter the steady drop in passenger activity over the previous four years. Through a revenue guarantee, AirTran Airways began direct service to Orlando and Fort Lauderdale. In the first six months, passenger activity increased 16 percent over one year ago. This demonstrates the challenge airports have of legally providing a revenue guarantee regardless of whether the money is available. Because of this challenge it is not uncommon for state governments to implement air service grants. Kansas offers incentives based on the belief that an annual investment of \$5 million will save citizens over \$40 million through lower airfares. This benefits the average consumer and companies in the community.

Representative Palumbo said without airport service Kentucky can neither serve consumers nor the domestic business and international community.

Responding to a question on how to maintain and create jobs, Mr. Mok gave examples of how other cities offer programs such as revenue guarantees. Airlines are most concerned with minimizing risk when entering a new market, and one way to avoid this is to minimize the cost of entry into the market. European and Asian airports typically provide all required operations handling services—a significant cost of entry. One consideration would be to offer similar airline handling services. Seed capital and training and development funds would be helpful as well. Tim Zeis, Chief Operating Officer at CVG gave an example of the state providing a \$400,000 jobs incentive for the 1994 Delta and ComAir expansion that resulted in the purchase of property that is still in use by the airport.

Representative Palumbo said smaller regional airports should also be included in discussions.

Mr. Frankl added that each airport has different operations and re-

quires different strategies for reaching the same end goal. Any assistance by the state would need to be flexible.

Mr. Miller said the Louisville Airport is not looking for a handout but a hand up to be prepared to compete with other states' incentives. The airport representatives agreed that while they are competitors, the success of the Commonwealth is their main focus.

Responding to Senator Stine's questions, Mr. Mok said that while virtually every airport in Europe and Asia provides ground support, no major commercial airport in the United States does due to the origins of the airline industry in the U.S. As the industry evolves, airlines are now outsourcing these services. Area Chambers of Commerce have been collaborative and supportive of CVG. He said a skilled labor pool is important for carriers considering the market and one exists due to recent layoffs. The airport is working with local college to ensure training remains available.

Senator Smith suggested investigating the use of coal fuel as a more economical and local source of airline fuel.

Representative Clark asked for a business plan before tax incentives are decided upon. Mr. Mok said the board is committed to diversifying air service providers at CVG. Due to multiple factors, it is not expected that Delta will ever rebuild to their previous numbers.

Senator Webb said the state should hear from a broad range of carriers to understand what is needed to expand into Kentucky before the state invests, and asked for information on any federal commitment to expand before the state attempts to craft a plan. She asked for information programs offered by other states, and that detailed information is needed before the legislature can move forward.

Responding to Representative Koenig's question about assistance to airlines, Mr. Miller said a number of offerings are available including cooperative advertising, fee abatement programs, and a pool of resources and assets offered to carriers to defray startup costs. Any assistance available is tied to continuation and maintenance of a certain level of services.

Responding to Representative Wuchner's questions, Mr. Mok said the largest European markets from CVG are London, Frankfurt, and

Paris. He explained that the use and lease agreement with Delta expires in 2015, and that separate terminal leases with Delta expire from 2015 to 2025. He said the original exclusive lease with Delta was modified when they filed bankruptcy.

In response to Senator Kerr's question Mr. Frankl said that while the Blue Grass Airport has suffered some missteps, the airport has come a long way with new board members and an internal reorganization in progress. Redevelopment should conclude within six months to a year.

Representative Moore expressed concern that the industry may be addressing symptoms rather than some of the market's underlying problems. He encouraged the airport representatives to give members of the legislature and the committee specific recommendations on how to help the state's airport industry. Given the state of the economy he asked for suggestions for nonmonetary adjustments the legislature could make as well to encourage carriers to expand.

Senator Schickel thanked the presenters and noted that the Program Review and Investigations Committee would be aggressively working towards a report to be reviewed at the October meeting. He said the September 9th meeting would cover workforce development for older workers. The minutes of the last meeting will be approved then as well.

Owensboro Museum of Fine Art Representative Thompson introduced representatives from the Owensboro Museum of Fine Art and stressed the importance of a cultural environment and the role it plays in Kentucky's communities, particularly the connection between a cultural environment and the ability to attract and retain jobs in a community.

Ms. Hood, Executive Director of the Owensboro Museum of Fine Art, said since its inception in 1977, the Owensboro Museum has become the state's second largest art museum with over 70,000 visitors annually. It has evolved into a regional center for the visual arts. The museum, now housed in three wings, also offers two outdoor sculpture parks. She said while this dynamic growth is the result of generous financial support and extensive gifts to the art collection, it is more the result of the enthusiastic response from regional residents to its broad

programming and arts education. Two of western Kentucky's most important historical structures enhance its physical plan. Both are national historic sites—the Carnegie Building built in 1910 and a civil war era mansion, the John Hammond Smith House. They were structurally joined by a \$2.5 million expansion creating an architectural concept called the village environment containing 14 galleries. The site also features two outdoor sculpture parks that include green space and a walking trail. The museum features local artists, folk art, and national touring exhibitions. More than 30,000 school children visit the museum annually to view the exhibits, watch performing arts events, and participate in the museum's educational opportunities. There is a month-long summer camp as well.

Ms. Hood introduced a video featuring the museum.

Mr. Dean Stanley, chairman of the museum's board of directors, explained that the museum needs financial help. The community saw a need for greater cultural awareness and decided to commit their time and resources to making it happen by supporting the museum. It is an educational resource and an asset to economic development and tourism. Most importantly, it directly contributes to the quality of life in the region. The museum has the potential to offer even greater educational opportunities to the people of western Kentucky. These enhanced opportunities are even more important in light of the recent financial challenges faced by regional school systems, and the museum's experience in planning and implementing creative educational programs could benefit the regional in much the same way as the Kentucky Historical Society does with its state-assisted programs. Mr. Stanley noted that eastern Kentucky is represented through the Prestonsburg Mountain Arts Center and the Kentucky Artisan's Center in Berea. A western Kentucky Center for the Visual Arts could serve the same purpose for western Kentucky. This vision was recently shared with the Governor's Office as well. Mr. Stanley asked that the legislature include funding for the museum as a line item in the state's next biennium budget. The museum is requesting approximately \$400,000 a year to develop the regional center. Based on an economic study by American's for the Arts, art centers create jobs and

contribute to the economy. He said many cities are working to attract a young, educated and professional workforce through arts and cultural offerings.

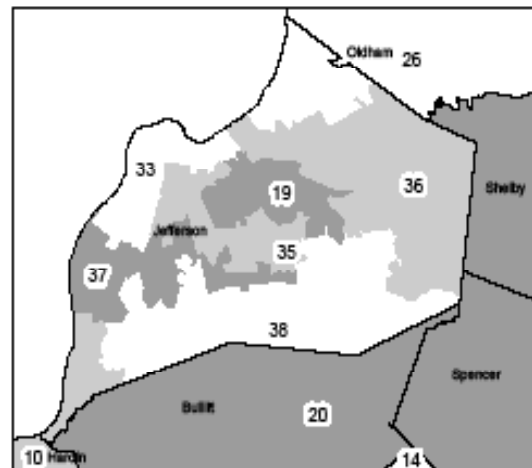
Representative Ballard said the Owensboro Museum is a valuable asset to western Kentucky.

Representative Palumbo said the museum has a wonderful collection of fine art. She supported helping the museum any way possible.

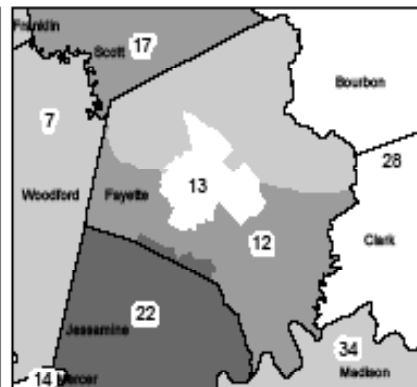
Senator Rhoads said the museum's reputation as a cultural center is rightly deserved.

Responding to Senator Westwood's question, Mr. Stanley said to create the outreach program through the Western Kentucky Center for the Visual Arts they would need funding for additional staff and expansion of the museum as the museum's size limits its offerings. Ms. Hood added that the museum is a source of direction to other museums wanting to offer similar services and additional funding would also allow them to provide greater assistance to other arts facilities.

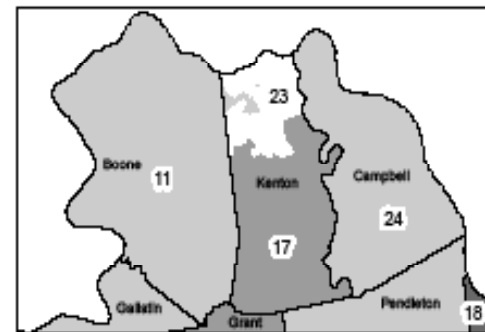
There being no further business, the meeting adjourned at 3:00 PM.



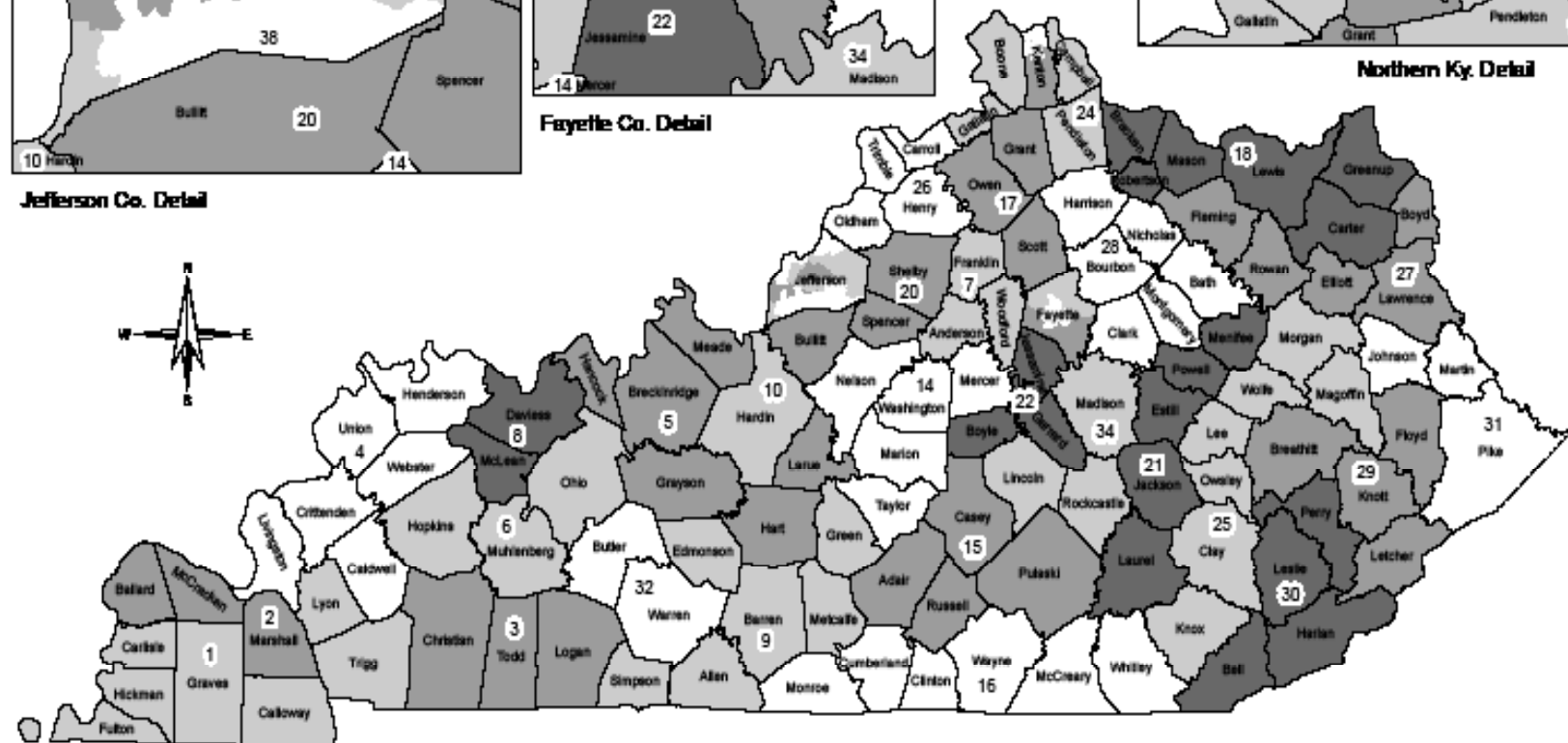
Jefferson Co. Detail



Fayette Co. Detail



Northern Ky. Detail

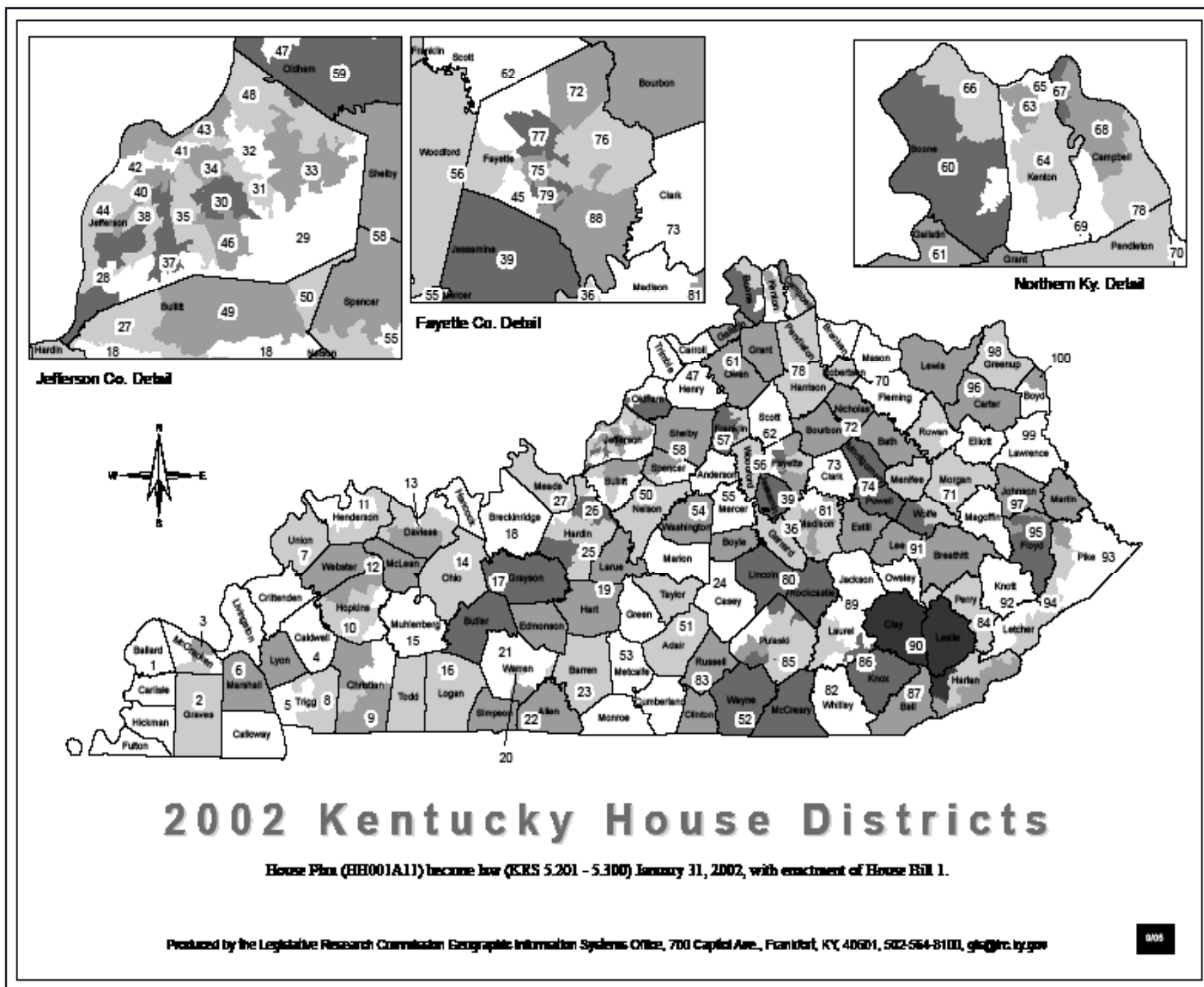


2002 Kentucky Senate Districts

Senate Plan (SH001A09) became law (KRS 5.101 - 5.138) January 31, 2002, with enactment of House Bill 1.

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LRC Publications

Informational Bulletins

- 232** General Assembly Action 2010 Regular Session
- 231** Final Committee Reports of the Interim, Joint, Special, and Statutory Committees
- 230** Issues Confronting the 2010 Kentucky General Assembly
- 229** General Assembly Action 2009 Regular Session
- 228** Final Reports of the Interim Joint, Special, and Statutory Committees 2008
- 227** Issues Confronting the 2009 General Assembly An update of Informational Bulletin No. 224 (2008)
- 226** General Assembly Action, Regular Session 2008
- 225** Final Reports of the Interim Joint, Special and Statutory Committees (2007)
- 224** Issues Confronting the 2008 General Assembly

Research Reports

- 370** Office of Education Accountability Compendium of State Education Rankings (2009)
- 368** Office of Education Accountability Kentucky District Data Profiles (2009)
- 367** Program Review and Investigations A Review of the Kentucky Agency for Substance Abuse Policy and the Office of Drug Control Policy
- 366** Program Review and Investigations Education Professional Standards Board (2009)
- 365** Program Review and Investigations Housing Foreclosures in Kentucky (2009)
- 364** Subcommittee on the Penal Code and Controlled Substances Act Report of the Subcommittee on the Penal Code and Controlled Substances Act (2009)
- 363** Office of Education Accountability Review of Education Technology Initiatives (2009)
- 362** Office of Education Accountability Compendium of State Education Rankings (2008)
- 361** Office of Education Accountability Fees, Dues, and Supplies in Kentucky Schools (2009)
- 360** Office of Education Accountability Kentucky District Data Profiles School Year 2007-2008
- 359** Program Review and Investigations Costs of Providing Services to Unauthorized Aliens Can Be Estimated for Some Programs, but Overall Costs and Benefits Are Unknown (2009)
- 358** Office of Education Accountability Review of Special Education in Kentucky
- 357** Program Review and Investigations Reentry Programs for Felons Should Be Improved and Outcome Measures Should Be Developed (2008)





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Printed with state funds

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