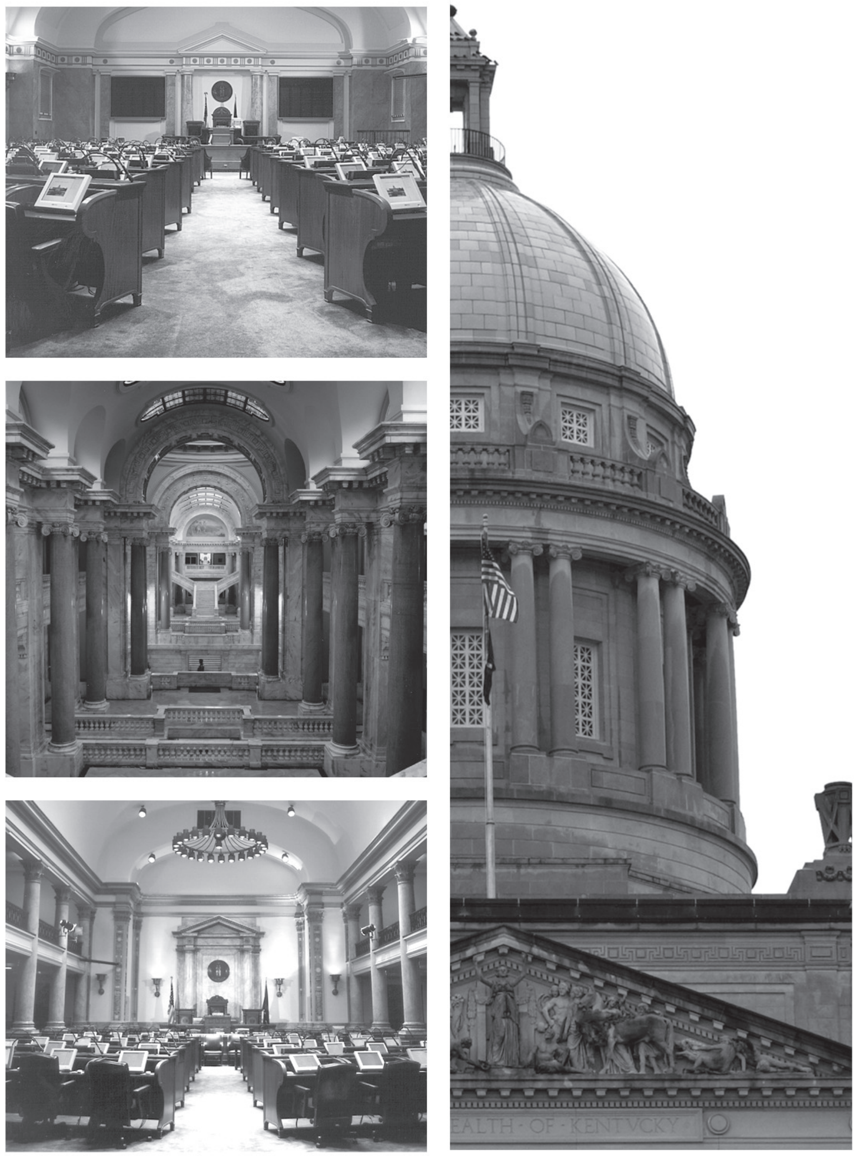
Final Reports of the Interim Joint, Special, and Statutory Committees 2012



Informational Bulletin No. 240

Legislative Research Commission
Frankfort, Kentucky
December 2012

Final Reports of the Interim Joint, Special, and Statutory Committees

2012

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

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Frankfort, Kentucky
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December 2012

Foreword

Sections 36 and 42 of the Kentucky Constitution provide that the General Assembly shall meet on the "first Tuesday after the first Monday in January" for 60 legislative days in even-numbered years, and for 30 legislative days, including up to 10 days for an organizational component, in odd-numbered years.

Between legislative sessions, the interim joint committees of the Legislative Research Commission (LRC), as well as special and statutory committees, meet to discuss and receive testimony on a number of important issues that may confront the General Assembly.

During the 2012 Interim, all 15 interim joint committees held meetings. Five special committees met in 2012. Seven of the eight statutory committees met during the 2012 Interim.

LRC provides this informational booklet as a summary of the activity of the interim joint, special, and statutory committees since adjournment of the 2012 General Assembly. The reports were prepared separately by the committee staff.

Robert Sherman
Director

Legislative Research Commission
Frankfort, Kentucky
December 2012

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Sen. Joe Bowen
Sen. Carroll Gibson
Sen. Paul Hornback
Sen. Bob Leeper
Sen. Vernie McGaha
Sen. Dennis Parrett
Sen. Joey Pendleton
Sen. Dorsey Ridley
Sen. Damon Thayer
Sen. Robin Webb
Sen. Ken Winters
Rep. Royce Adams
Rep. John Arnold
Rep. Johnny Bell
Rep. John "Bam" Carney
Rep. Mike Cherry
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Rep. Jim DeCesare
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Rep. C.B. Embry
Rep. Jim Glenn
Rep. Sara Beth Gregory
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Rep. Kim King
Rep. Martha Jane King
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Rep. Sannie Overly
Rep. Ryan Quarles
Rep. Tom Riner
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Rep. Steven Rudy
Rep. Rita Smart
Rep. Wilson Stone
Rep. Tommy Turner
Rep. Susan Westrom

LRC Staff: Tanya Monsanto, Lowell Atchley, Kelly Ludwig, Kelly Blevins, and Susan Spoonamore

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2013 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

Subcommittee on Horse Farming

Sen. Damon Thayer, Co-Chair
Rep. Susan Westrom, Co-Chair

Sen. Carroll Gibson
Sen. Dennis Parrett
Sen. Joey Pendleton
Sen. Robin Webb
Rep. Royce W. Adams
Rep. Sara Beth Gregory
Rep. Richard Henderson
Rep. Martha Jane King
Rep. Michael Meredith
Rep. Brad Montell
Rep. David Osborne
Rep. Sannie Overly
Rep. Ryan Quarles
Rep. Tom Riner
Rep. Rita Smart
Rep. Wilson Stone

Sen. David Givens, ex officio
Rep. Tom McKee, ex officio

LRC Staff: Lowell Atchley and Kelly Blevins

Subcommittee on Rural Issues

Sen. Vernie McGaha, Co-Chair
Rep. Mike Denham, Co-Chair

Sen. Joe Bowen
Sen. Paul Hornback
Sen. Bob Leeper
Sen. Dorsey Ridley
Sen. Ken Winters
Rep. John A. Arnold, Jr.
Rep. Johnny Bell
Rep. John “Bam” Carney
Rep. Mike Cherry
Rep. Will Coursey
Rep. Jim DeCesare
Rep. Myron Dossett
Rep. C.B. Embry
Rep. Jim Glenn
Rep. Kim King
Rep. Terry Mills
Rep. Fred Nesler
Rep. Bart Rowland
Rep. Steven Rudy
Rep. Tommy Turner

Sen. David Givens, ex officio
Rep. Tom McKee, ex officio

LRC Staff: Kelly Ludwig and Susan Spoonamore

Interim Joint Committee on Agriculture

Jurisdiction: Matters pertaining to crops, livestock, poultry, and their marketing; disease control; warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the State Fair; and county fairs.

Committee Activity

The Interim Joint Committee on Agriculture held six meetings during the 2012 Interim. Several committee meetings were held outside of Frankfort in order to visit various sites engaged in agricultural operations. The Subcommittee on Horse Farming and the Subcommittee on Rural Issues were reauthorized, and each held two meetings. Various topics were discussed, and several agencies and organizations updated the committee on ongoing projects and proposed legislative suggestions for the 2013 Regular Session.

The committee visited several venues outside Frankfort, including Blue Licks Battlefield State Park, where members discussed the effects of Phase I funds on Robertson County. Members discussed agricultural biotechnology research with representatives of the University of Kentucky, and Southeast Biofuels gave a presentation on ethanol production using sorghum. Some committee members also shared that a monetary settlement with the Eastern Livestock Company had been worked out and that farmers would be paid in installments.

The committee met at Owsley County High School to learn about the Owsley County Farm to School and community garden initiative, rural "food deserts," and farmers markets and to hear testimony regarding problems associated with loggers not adhering to the Forest Conservation Act. The committee adopted a resolution to address the effects of the drought on agriculture throughout the Commonwealth.

At the state fair, the President of the State Fair Board testified about fair activities and projects undertaken by the board. Testimony concerned the Louisville Health Hometown and Farm to Table programs. The University of Louisville's director of equine programs testified about the university's Equine Industry Program.

The committee met at the E.S. Good Barn at the University of Kentucky. University representatives, including the Dean of the College of Agriculture and the President of the University of Kentucky, gave an overview of the college and an update on enrollment and programs at the university. The committee heard testimony about the drought impact, agriculture economy, and the outlook on tobacco. Committee members also received testimony from the state veterinarian regarding the Kentucky Livestock Care Standards Commission.

The Kentucky Department of Agriculture testified about the fuel lab, and members heard about total maximum daily load and its effects on Floyds Fork. The Kentucky Department of Fish and Wildlife contributed testimony about Asian carp.

Administrative Regulations

Three administrative regulations from the Department of Agriculture were referred to the committee; they related to amusement rides and attractions and to licensing requirements for structural pest control industry.

Legislative Proposals Received from State Agencies

The Kentucky Department of Agriculture, Kentucky Farm Bureau, Governor's Office of Agricultural Policy, and Community Farm Alliance presented legislative proposals and comments.

Governor's Office of Agricultural Policy

- Support and continue allocating 50 percent of Master Settlement Agreement funds to Agricultural Development Board.

Kentucky Department of Agriculture

- Create or support a resolution by the General Assembly urging Washington to revise drug policy to allow US industrial hemp cultivation.
- Change deadlines of county fair programs in order to get information to public in a timely manner.
- Lower the number of animals consigned to dairy shows.
- Require that fines on amusement ride operators stay with the individual rather than the business.
- Allow new pricing structures for retail motor fuel devices so that the price at the pump matches the price on the street sign.
- Support continued allocation of 50 percent Master Settlement Agreement funds to Agricultural Development Board.
- Support any tax credits that help farm families.

Kentucky Farm Bureau

- Support continued allocation of 50 percent Master Settlement Agreement funds to Agricultural Development Board.
- Discuss wildlife management, private property rights for abandoned waterways, and issues pertaining to water. Legislative proposals may be adopted after the annual meeting in December.

Community Farm Alliance

- Address state nutrition issues and encourage use of local farm products.
- Encourage farm and nonfarm entrepreneurs in the areas of home processing and micro-processing allowed under 2003 Regular Session HB 391; recognize local

and regional food systems; and consider use of coal severance funds for developing nonfarm entrepreneurs in eastern Kentucky.
- Create a model for local food systems by using community resources.
- Work with Kentucky Proud to create a 100 percent Kentucky Proud certification/label.
- Create programs for veterans and continue support of Homegrown by Heroes.

Reports Received

The committee received the following reports:
- The Kentucky Department of Agriculture: 2011 Annual Report for the Kentucky Milk Commission.
- Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Former Administration of the Kentucky Department of Agriculture.
- Kentucky Tobacco Research and Development Center: Quarterly Report for January 1–March 31, 2012.
- Kentucky Tobacco Research and Development Center: Quarterly Report from April 1 through June 30, 2012.
- House Bill 166 Annual Report.
- Cabinet for Economic Development: Update: Agricultural Warehousing Sites Cleanup Fund for FY 2012.
- Auditor of Public Accounts: FY 2012 Report of the Audit of the Kentucky Department of Agriculture Spay and Neuter Program.

Subcommittee Activity

Subcommittee on Horse Farming

The Subcommittee on Horse Farming met twice during the 2012 Interim and heard testimony on issues related to horse racing and nonracing activities. Kentucky Horse Racing Commission officials discussed efforts to monitor pari-mutuel wagering, the status of the Breeders' Incentive programs, and the regulation of race horse medications. Kentucky Arabian and Half Arabian Breeders Alliance representatives discussed the history, status, and uses of the breed.

The Executive Director of the Kentucky Horse Council discussed ongoing endeavors, including a survey of the equine industry in Kentucky. The Tennessee Walking Horse Breeders' and Exhibitors Association discussed the history and uses of the breed and activities.

Subcommittee on Rural Issues

The Subcommittee on Rural Issues met twice during the 2012 Interim. The Commonwealth Office of Broadband Outreach and Development discussed the availability of broadband service in rural Kentucky. The University of Kentucky's

Department of Agricultural Economics discussed options for livestock and crop insurance programs.

The Department of Workforce Development's Director of Research and Statistics testified about population shift and its effects on rural Kentucky. The Director of the Community and Economic Development Initiative of Kentucky at the University of Kentucky discussed jobs in rural areas.

Report of the 2012 Interim Joint Committee on Appropriations and Revenue

Sen. Bob Leeper, Co-Chair
Rep. Rick Rand, Co-Chair

Sen. Walter Blevins, Jr.
Sen. Joe Bowen
Sen. Tom Buford
Sen. Jared Carpenter
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Jimmy Higdon
Sen. Paul Hornback
Sen. Ray S. Jones II
Sen. Alice Forgy Kerr
Sen. Vernie McGaha
Sen. Gerald A. Neal
Sen. R.J. Palmer II
Sen. Joey Pendleton
Sen. Brandon Smith
Sen. Jack Westwood
Sen. Mike Wilson
Rep. Royce W Adams
Rep. John A. Arnold, Jr.
Rep. Dwight D. Butler
Rep. John “Bam” Carney
Rep. Jesse Crenshaw
Rep. Ron Crimm
Rep. Mike Denham
Rep. Bob M. DeWeese
Rep. Kelly Flood
Rep. Danny R. Ford
Rep. Derrick Graham
Rep. W. Keith Hall
Rep. Richard Henderson
Rep. Jimmie Lee
Rep. Reginald Meeks
Rep. Lonnie Napier
Rep. Fred Nesler
Rep. Sannie Overly
Rep. Marie L. Rader
Rep. Jody Richards
Rep. Steven Rudy
Rep. Sal Santoro
Rep. Arnold Simpson
Rep. Jim Stewart III
Rep. Tommy Turner
Rep. Jim Wayne
Rep. Alecia Webb-Edgington
Rep. Susan Westrom
Rep. Brent Yonts

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

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Subcommittee Organization and Membership

Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection

Sen. Brandon Smith, Co-Chair
Rep. John Arnold, Co-Chair

Sen. Ray S. Jones II
Sen. Alice Forgy Kerr
Rep. Terry Mills
Rep. Lonnie Napier
Rep. Marie Rader
Rep. Fitz Steele
Rep. Susan Westrom

Rep. Tanya Pullin, ex officio
Rep. Leslie Combs, nonvoting ex officio
Rep. Jim Gooch, Jr., nonvoting ex officio
Rep. Ruth Ann Palumbo, nonvoting ex officio

LRC Staff: Kem Delaney-Ellis, Katherine Halloran, Zach Ireland, and Christina Williams

Budget Review Subcommittee on General Government, Finance, and Public Protection

Sen. Jack Westwood, Co-Chair
Rep. Royce Adams, Co-Chair

Sen. Ernie Harris
Sen. Joey Pendleton
Rep. Dwight Butler
Rep. Leslie Combs
Rep. Mike Denham
Rep. Adam Koenig
Rep. Brad Montell
Rep. Tanya Pullin
Rep. Tom Riner
Rep. Wilson Stone

Rep. Thomas M. McKee, nonvoting ex officio
Rep. Steve Riggs, nonvoting ex officio

LRC Staff: Kem Delaney-Ellis, Linda Ellis, Katherine Halloran, Perry Papka, Jennifer Rowe, Frank Willey, Tom Willis, and Spring Emerson

Budget Review Subcommittee on
Human Resources

Sen. Tom Buford, Co-Chair
Rep. Jimmie Lee, Co-Chair

Sen. Julie Denton
Sen. Denise Harper Angel
Rep. Linda Belcher
Rep. Bob M. DeWeese
Rep. Mary Lou Marzian
Rep. Donna Mayfield
Rep. Darryl T. Owens
Rep. David Watkins
Rep. Jim Wayne
Rep. Addia Wuchner

Rep. Tom Burch, nonvoting ex officio

LRC Staff: Alex Fontana, Cindy Murray, Frank Willey, and Amie Elam

Budget Review Subcommittee on
Justice and Judiciary

Sen. Tom Jensen, Co-Chair
Rep. Jesse Crenshaw, Co-Chair

Sen. Gerald A. Neal
Sen. Robert Stivers
Rep. Johnny Bell
Rep. Ron Crimm
Rep. Joni Jenkins
Rep. Martha Jane King
Rep. Alecia Webb-Edgington
Rep. Brent Yonts

Rep. John Tilley, nonvoting ex officio

LRC Staff: Zach Ireland, Mike Mullins, and Christina Williams

Budget Review Subcommittee on
Postsecondary Education

Sen. Jared Carpenter, Co-Chair
Rep. Arnold Simpson, Co-Chair

Sen. Gerald A. Neal
Sen. Ken Winters
Rep. Julie Raque Adams
Rep. Jim DeCesare
Rep. Kelly Flood
Rep. Jim Glenn
Rep. Melvin Henley
Rep. Reginald Meeks
Rep. Jody Richards
Rep. Kevin Sinnette
Rep. Rita Smart

Rep. Carl Rollins, ex officio

LRC Staff: Kelly Dudley and Amie Elam

Budget Review Subcommittee on
Primary and Secondary Education

Sen. Jared Carpenter, Co-Chair
Rep. Derrick Graham, Co-Chair

Sen. Gerald A. Neal
Sen. Ken Winters
Rep. John "Bam" Carney
Rep. Will Coursey
Rep. Ted Edmonds
Rep. Dennis Horlander
Rep. Charles Miller
Rep. Rick Nelson
Rep. Steve Rudy
Rep. John Will Stacy

Rep. Carl Rollins, ex officio

LRC Staff: Perry Papka, Tom Willis, and Amie Elam

Budget Review Subcommittee on Transportation

Sen. Jimmy Higdon, Co-Chair
Rep. Sannie Overly, Co-Chair

Sen. Ernie Harris
Sen. Ray S. Jones II
Sen. R.J. Palmer
Rep. Tim Couch
Rep. Danny R. Ford
Rep. Jim Gooch, Jr.
Rep. Jeff Greer
Rep. W. Keith Hall
Rep. Richard Henderson
Rep. Dennis Keene
Rep. Fred Nesler
Rep. Sal Santoro
Rep. John Short
Rep. Jim Stewart

Rep. Hubert Collins, nonvoting ex officio

LRC Staff: Jenny Anglin, Chuck Truesdell, and Spring Emerson

Ex Officio Members for all subcommittees:
Sen. Bob Leeper
Sen. Vernie McGaha
Rep. Rick Rand

Interim Joint Committee on Appropriations and Revenue

Jurisdiction: Matters pertaining to the executive budget and other appropriations of state moneys; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans' bonus; claims upon the treasury; accounting of state funds by local officers; audit for state purposes; budget and financial administration; payment, collection, and refund of taxes; distribution and budgeting of state lottery proceeds.

Committee Activity

During the 2012 Interim, the Interim Joint Committee on Appropriations and Revenue held six meetings. The committee received testimony regarding a wide range of topics.

Public Pension Task Force

Rep. Mike Cherry, Chair of the Kentucky Public Pension Task Force, and a representative of the Pew Center on the States testified that the task force has completed its recommendations for improving the financial health of the Kentucky Retirement Systems (KRS). Related to the unfunded liability, the task force primarily recommends that the actuarially required contribution be made beginning with the next budget cycle, FY 2014-2015 and FY 2015-2016, and that the statutory cost of living adjustments be repealed. These two recommendations will result in an additional appropriation to the KRS of approximately $300 million to $350 million for each year of the next biennial budget. Other secondary recommendations include resetting the amortization period, modifying the provisions related to reemployment after retirement (commonly referred to as "double dipping"), providing pension spiking provisions, establishing further transparency on the KRS website, and modifying the structure of the KRS Board. Finally, a hybrid cash balance plan is recommended for all newly hired employees. This new plan will create a stable and sustainable retirement for employees, share risk between the Commonwealth and its employees, and provide an appropriate benefit plan to produce the needed workers for the Commonwealth.

Tax Amnesty Program

The Commissioner of the Department of Revenue stated that the final day to apply for tax amnesty was November 30, 2012. As has been the case with the prior two amnesty programs, most of the applications are received within the last 10 days of the period. Because of installment payments allowed for tax amnesty and the enforcement tools granted by the General Assembly, a final count of dollars collected through the program will not be available until the current fiscal year ends.

Year-End Report for FY 2011–2012 for the General Fund and Road Fund

The Secretary of the Governor's Executive Cabinet and State Budget Director updated the committee regarding incoming Tobacco Settlement funds and provided an economic outlook for FY 2013. General Fund revenues increased by 3.8 percent for the year. There was growth in all of the major taxes, with 5.4 percent in sales tax, 2.8 percent in individual income tax, and 24.5 percent in corporate income tax, but there was a downturn of 7 percent in the limited liability entity tax.

The Secretary discussed historic revenue growth rates, stating that the FY 12 General Fund revenues increased for the second year, after declines in FY 09 and FY 10. The receipts exceeded the official FY 12 estimate by $83.3 million. After deduction for dedicated severance tax appropriations and adding in unbudgeted lapses, the total General Fund surplus is $45.7 million. In accordance with the HB 265 surplus expenditure plan, the surplus funds will be allotted to FY 12 necessary government expenses and the Budget Reserve Trust Fund.

The Secretary discussed FY 12 necessary government expenses (NGEs), stating that these are certain expenses provided for in the budget but for which no funds are appropriated. Funds are typically allotted from the General Fund Surplus Account and the Budget Reserve Trust Fund to cover these expenses. Total NGEs for FY 12 were $45.5 million, consisting of disaster relief funds, forest fire suppressions, additional funds for corrections, and guardian ad litem funds. The secretary outlined the authorized NGE expenses for the FY 12–14 executive branch budget, and provided historical information regarding recent NGE totals.

The Secretary stated that the Road Fund increased by 7.8 percent in FY 12, primarily through increases in the motor fuels tax and motor vehicle usage tax receipts. Revenues exceeded the projected estimate by $31.3 million. The Road Fund finished FY 12 with a surplus of $50.3 million, with all surplus funds deposited into the State Construction Account. The secretary stated that the increase in Road Fund revenues reflects the statutory formula increase in the fuels taxes.

The Deputy Budget Director discussed the general economic outlook for the next biennium. The actual General Fund growth needed to meet budgetary requirements is lower for FY 13 and FY 14 than during the last biennium. The trend for General Fund revenues over the next biennium is generally positive, with modest growth and both major taxes performing slightly better than the national average. There is some concern regarding coal severance revenues, and the underlying economic uncertainty will limit upside potential. He also discussed the anticipated performance of the Road Fund over the next biennium. The actual Road Fund growth needed to meet budgetary requirements is lower for FY 13 and FY 14 than during the last biennium. The trend for Road Fund revenues over the next biennium is generally positive, with growth foreseen in the motor vehicle usage tax. Falling fuel prices could destabilize Road Fund revenues.

Kentucky Health Benefit Exchange

The Executive Director of the Kentucky Health Benefit Exchange provided a history and general overview of the exchange. A health benefit exchange is an organized marketplace for individuals and employees of small businesses to shop for health insurance offered by insurers based on price and quality. Individuals will also be able to apply for Medicaid coverage through the exchange. The exchange was created by Executive Order 2012-587 and is organized under the Cabinet for Health and Family Services. It has four divisions and a separate Advisory Board with six subcommittees. The exchange will hold its first open enrollment from October 1, 2013, through March 31, 2014, and will be fully operational on January 1, 2014. Kentucky guides the exchange based on the state's unique regional and economic needs. Kentucky will pursue a state-based exchange to prevent federal government intervention and to address concerns with dual regulation of the health insurance market. This will allow the state to determine the benefits that will be provided and give flexibility in determining Medicaid eligibility.

The Executive Director gave an overview of the benefits required for the program, including the minimum package of services allowed, the navigator program, and the Small Business Health Option Program (SHOP). She discussed the eligibility standards for employers wanting to purchase health insurance coverage through the SHOP program, and who will qualify for insurance premium assistance and federal tax credits. Individuals with a household income between 133 percent and 400 percent of the federal poverty level will qualify for premium assistance. Small businesses may qualify for tax credits if the employer has fewer than 25 full-time employees, the average annual wage of employees in the group is less than $50,000, and the employer pays at least 50 percent of the premium for each employee. She provided examples of premium assistance and IRS tax credit calculations.

The Executive Director provided an implementation timeline update and discussed exchange grant funds received by the state and their use. She discussed the application process for the exchange and provided information concerning the contract with Deloitte to develop the new Medicaid eligibility and exchange application computer system.

Cabinet for Health and Family Services Program Additions and Expansions

The Deputy Secretary of the Cabinet for Health and Family Services discussed each of the cabinet's budgetary units affected by the enacted budget. He discussed pain management facilities, stating that the Office of the Inspector General is responsible for enforcement of licensure standards for existing facilities that qualify for the physician ownership exemption in HB 1. Paperless account registration for the Kentucky All Schedule Prescription Electronic Reporting system has begun, and daily reporting will begin July 1, 2013. Additional staff members are being hired to help implement HB 1. Interstate data sharing will be expanded over the biennium.

The Deputy Secretary of the Cabinet for Health and Family Services discussed programs in the Department for Behavioral Health. He discussed proposed amendments to the Medicaid state plan. The preliminary draft of the Medicaid state plan amendment regarding the substance abuse program has been completed. Contingent upon approval, the program will begin in January 2013. Input is being gathered from stakeholders regarding community services for the severely mentally ill. This information will be used in drafting a proposed amendment to the Medicaid state plan. If approved, the program would begin in the fall of 2012. An additional 300 new slots each year of the biennium have been approved in Community Supported Living. The regulation to implement this plan will be completed during this summer.

The Deputy Secretary of the Cabinet for Health and Family Services discussed construction projects in the Department for Behavioral Health. There will be a request for proposals issued in July regarding electrical upgrades to Western State Hospital. The construction on the Glasgow State Nursing facility is 70 percent completed with an anticipated completion date of December 3, 2012. The project is on track to receive Leadership in Energy and Environmental Design (LEED) certification. Construction is 70 percent completed at the new Eastern State Hospital facility, with an anticipated completion date of February 2013. The facility is expected to receive a LEED silver certification, and transition into the new facility is expected to begin in March 2013. The cabinet has requested a proposal from the Bluegrass Mental Health/Mental Retardation Board for operation of the new facility.

The Deputy Secretary of the Cabinet for Health and Family Services discussed other departments within the cabinet, stating that the Department for Community Based Services will be hiring 258 new front-line field staff. The Department for Aging and Independent Living will use half of the $5 million received each year in the budget to maintain funding at FY 12 levels. Assuming no reductions in federal funds due to the Budget Control Act, the department will use $1.2 million to provide meals and case management to 300 additional seniors. $700,000 will allow for approximately 45 new personal care attendant clients, and $500,000 will be used to hire staff in the guardianship program.

Managed Care Organizations

The Commissioner of the Department for Medicaid Services discussed the Medicaid managed care organizations (MCOs) in Kentucky. He provided historical data concerning rates and provided estimates for future rates with and without the use of the MCOs. The Medicaid MCO-eligible population is expected to reach 577,490 by FY 14. The projected Medicaid expenditure over the next 3 years under managed care is $6.48 billion, compared to $7.75 billion without managed care. The current budget was based on achieving these savings. The department is on track, as the cost per individual eligible and number of eligibles is lower than projected. Managed care represents only half of the total $5.79 billion Medicaid budget, with the remainder being fee-for-services. Monthly expenditures are below the enacted budgeted amounts for the first quarter of FY 13.

The Commissioner discussed other Department for Medicaid Services priorities, which include MCO contract compliance, and network adequacy reviews. He discussed the health benefit exchange and its effect on eligibility updates and changes. The single database will make managing this information easier. He discussed the contract with IPRO, which won the contract to evaluate the performance of the MCOs. IPRO will monitor the overall quality and financial performance of the Medicaid and CHIP programs, maintain a database and system to enable all functions for quality review, conduct data analysis, and report analytical findings to the department. He discussed the contract with Rector & Associates to perform market conduct and financial examinations of the MCOs. Finally he discussed the effect that MCOs have had on various sectors of Medicaid cost. Prescription costs and emergency room visits have declined since the implementation of the MCOs.

Kentucky's Unemployment Insurance Program and Trust Fund

The Secretary of the Education and Workforce Development Cabinet stated that Kentucky's unemployment rate is 8.3 percent, which matches the national average. Kentucky has steadily added jobs since 2010, and the growth rate is increasing. He discussed the Unemployment Insurance Administration Fund loan that the General Assembly authorized during the 2012 Regular Session. The loan has been obtained from J.P. Morgan Chase in an amount up to $76 million at a 1.95 percent fixed interest rate. These funds will be obtained in two draws, with the first taken in June 2012. The second infusion of funds will happen in September 2013. A dedicated state surcharge, imposed by 2012 RS HB 495, will provide the funds necessary to repay the loan. The maturity date for repayment of this loan is September 1, 2018.

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

The Secretary outlined operations for unemployment insurance, stating that initial claims have fallen to 33,716, from a high in January 2009 of 61,438. There are 81,690 recipients of benefits, which is down from the January 2010 high of 157,162. The total federal benefits paid to Kentucky recipients from January 2009 through July 2012 has been $3.026 billion. This amount is in addition to Kentucky unemployment insurance benefits paid to recipients. He discussed unemployment insurance operational changes implemented by 2010 SS HB 5. These changes include a taxable wage base increase, imposition of a waiting week for initial receipt of benefits, lowering of the wage replacement rate, freezing of the maximum wage replacement rate, and tax rate schedule trigger adjustment. Additional operational changes have been made including direct deposit, state income tax withholding, technology changes, and customer service improvement initiatives.

Northern Kentucky Economic Development

The following individuals provided testimony to the committee regarding economic development in Northern Kentucky:

- The Executive Director of the Northern Kentucky Convention Center discussed expansion to the center.
- The Chief Executive Officer of the Greater Cincinnati/Northern Kentucky Airport provided an update on the activities of the regional airport.
- The Chairman of the Northern Kentucky Port Authority and the President of the Port of Greater Cincinnati Development Authority discussed possible legislation to expand the development of the Northern Kentucky Port Authority beyond river transportation.
- The President of the Northern Kentucky Chamber of Commerce and the President and CEO of the Tri County Economic Development Corporation provided testimony regarding the need to build a new Brent Spence Bridge and discussed angel investment tax credits.
- The Executive Director of the Catalytic Fund discussed the role that private-sector, not-for-profit organizations can play in providing financing assistance and related services to developers of residential and commercial real estate projects in northern Kentucky's urban areas.
- The Mayor of the City of Covington and the President of Southbank Partners, Inc. discussed the Riverfront Commons project.

National Mortgage Settlement

The Chief Deputy Attorney General discussed the details of the national mortgage settlement. He said it is the second largest civil settlement ever obtained by state attorneys general, totaling $25 billion. The settlement provides for federal court oversight and independent monitors to oversee banks' compliance. Mortgage company practices prompting the investigation included the widespread falsifying of affidavits submitted to courts in foreclosure proceedings, pervasive misconduct detrimental to homeowners, and irrational economic conduct by lending institutions. He discussed statistics regarding foreclosures and homeowner equity in Kentucky. Foreclosure proceedings reached a peak in 2010, with 18,737 being initiated in that year. Since 2008, there have been 5,395 foreclosures initiated by the five settling banks in the state. There are currently 717,816 mortgages in the state, and it is estimated that about 8 percent of these currently have negative equity.

There are five lending institutions involved in the settlement: Bank of America, J.P. Morgan Chase, Wells Fargo, Citibank, and Ally. Kentucky will receive $58.7 million in the settlement. About $12 million will be set aside for foreclosure initiatives, providing direct relief to borrowers through principal reductions, short sales, anti-blight measures, and borrower transition efforts. About $15.9 million will help provide refinancing opportunities for borrowers with negative equity. About $19.2 million will provide state payments, and $10.8 million will provide payments to borrowers for mortgage servicing abuses. Additional servicers may be included in the settlement in the future. The settlement does not release servicers from criminal liability, including liability for possible securitization misconduct.

State Prison Population

The Secretary of the Justice and Public Safety Cabinet discussed state prison population trends over the past 12 months. The population is 21,641 inmates, but inmate totals vary daily. This total is below the 2010 inmate forecast but higher than the expected totals after the enactment of HB 463. The average length of inmate incarceration has been in line with forecasted levels. Mandatory release supervision (MRS) releases have been greater than forecast, and this program has been one of the primary reasons that the inmate population is below the forecast levels. There have been 2,398 program releases. Of this total, 1,094 are on active MRS supervision, 823 have successfully completed the program, with the remainder either having MRS revoked or revocation pending. He stated that the parole grant rates have been below the forecast level, with the projected rate at 51.6 percent. The actual grant rate has been 46.1 percent. This equates to 1,326 fewer inmates paroled in FY 12 than in FY 11, which results in 510 more inmates than forecast for FY 12. He presented estimated additional funds needed for inmate care above the HB 265 budgeted amount, which was based on the forecast.

Kentucky Horse Park Business Plan

The Executive Director of the Kentucky Horse Park presented the park's business plan, which the legislature mandated during the last regular session. He discussed the primary revenue generators for the park, which include equine events, attendance at the equine theme park, campground use, National Horse Center events, and food service sales. In 2012, 87 major equine events will be held at the park, generating $2.8 million in revenues. He discussed the economic impact of the park, stating that during the 2010–2012 biennium the park had contributed $49.7 million in tax revenues to the General Fund. He discussed the governance structure for the park, which is shared by the Kentucky Horse Park Commission, the Kentucky Horse Park Foundation, and the Tourism, Arts and Heritage Cabinet. The park has 72 full-time employees. Temporary labor is used primarily in the food service area, and inmates from the Blackburn Correctional Complex facilitate trash pickup, stall cleaning and landscaping. The park has an active volunteer program, with 160 volunteers donating 11,000 hours of work time to the park during 2011.

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

Subcommittee Activity

The Interim Joint Committee on Appropriations and Revenue is organized into seven Budget Review Subcommittees. Their purpose is to review revisions to the enacted budget, to monitor the budgetary operations and programs of state government, and to address agency budget needs for the 2012-2014 biennium.

Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection

The Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection did not meet during the 2012 Interim.

Budget Review Subcommittee on General Government, Finance, and Public Protection

The Budget Review Subcommittee on General Government, Finance, and Public Protection held one meeting during the 2012 Interim.

Representatives from the office of the Auditor of Public Accounts provided a report on data regarding special taxing districts in Kentucky and discussed the $2.7 billion spent by those districts.

Budget Review Subcommittee on Human Resources

The Budget Review Subcommittee on Human Resources did not meet during the 2012 Interim.

Budget Review Subcommittee on Justice and Judiciary

The Budget Review Subcommittee on Justice and Judiciary did not meet during the 2012 Interim.

Budget Review Subcommittee on Postsecondary Education
and
Budget Review Subcommittee on Primary and Secondary Education

The Budget Review Subcommittee on Primary and Secondary Education and the Budget Review Subcommittee on Postsecondary Education held three joint meetings during the 2012 Interim.

The Executive Director of the Office of Management and Administration, Department of Military Affairs presented a status report on the Appalachian ChalleNGe Academy. This report was prior to the opening of the Academy and touched on issues related to finances, recruiting, and the working relations with local school districts.

The President of the Council on Postsecondary Education testified about the council's revised accountability system and performance metrics associated with the student success focus area of its strategic agenda. He discussed the new Commonwealth College Initiative that was authorized in the 2012-2014 Executive Branch Budget Bill and gave a tentative timeline for implementation of the initiative. This initiative requires the council, in consultation with Kentucky Community and Technical College System, to develop a request for proposal for up to two public universities to serve as the lead institution or institutions for adult learners.

The subcommittee met at Griffin Hall on the campus of Northern Kentucky University (NKU). Faculty with the university's College for Informatics informed the subcommittee about the purpose of the college and its main areas including the Center for Applied Informatics and its startup business accelerator program, Uptech. The subcommittee also heard about the Center for Integrative Natural Science and Mathematics, which is the NKU's program of distinction in the Commonwealth. NKU's President emphasized the significance of creating a Health Innovations Center and the university's decision to spend $6 million of reallocated funds to renovate the old University Center into a new Student Success Center. The President of the Gateway Community and Technical College (GCTC) presented information about the Center for Advanced Manufacturing at its Boone Campus, the development of the new Urban Campus in Covington, and GCTC's relationship with NKU.

Staff from the Kentucky Department of Education discussed the financial condition of local school districts, tax rates, end-of-year fund balances, and staffing for all local school districts.

The Auditor of Public Accounts discussed recent audits conducted by his office in three school districts. He detailed specific findings and recommendations included in each audit. He indicated that he will continue to audit school districts if he receives complaints. The determination as to which districts to audit may be based on other factors in the future.

The Executive Director of Teach for America Appalachia (TFA) discussed the TFA program, a national non-profit organization that gives recent college graduates and professionals intensive training in teaching practices and asks them to commit two years to teach in economically depressed areas. There are 22 teachers working in eight school districts in eastern and southeastern Kentucky in the first year of TFA Appalachia's involvement in the Commonwealth. A progress report will be provided to the subcommittee at the end of the school term.

Budget Review Subcommittee on Transportation

The Budget Review Subcommittee on Transportation held three meetings during the 2012 Interim.

The Executive Director of the Office of Budget and Fiscal Management, Transportation Cabinet said that through May, Road Fund receipts were up 6.8 percent over the same period of FY 2011. Receipts from motor fuels were up 7.1 percent, and motor vehicle usage receipts were up 6.8 percent.

The state's gasoline tax, based in part on the fluctuating average wholesale price of gasoline, was 29.9 cents per gallon for the first and second quarters of FY 2013 compared to 27.8 cents per gallon for the fourth quarter of FY 2011. That figure represents the maximum 10 percent increase in the average wholesale price of gasoline allowed by statute. At current prices, the gasoline tax is expected to remain steady at 29.9 cents per gallon for the entire fiscal year.

For FY 2013, total Road Fund receipts are up 1.2 percent over FY 2012 through the first quarter. Motor vehicle usage receipts, however, are down 1.5 percent; offset by the 2.7 percent increase in motor fuels receipts. There have only been 12 large collections of motor vehicle usage tax in the first quarter of FY 2013 compared to 13 in the first quarter of FY 2012, which may explain the drop.

The Secretary of the Transportation Cabinet and his executive advisor discussed updates to federal surface transportation funding, with a new program, MAP-21, replacing SAFETEA-LU. The new program gives states more flexibility in allocating their federal dollars, eliminating earmarks and expediting the environmental review process while setting goals for performance management. Many programs will be consolidated, giving states the ability to focus their resources on more necessary areas. Federal bridge funding is among the areas that will no longer have a dedicated stream of funding, although the National Highway Performance Program and the Surface Transportation Program will both have minimum amounts that must be spent on bridges.

The Appalachian Development Highway System is expected to be completed in Kentucky by the end of the current Six-Year Highway Plan, freeing up those funds for other needs. Within the current funding cycle, MAP-21 eliminates the need for a state match on Appalachian Development Highway System projects, allowing that money to be used elsewhere.

If federal sequestration becomes a reality, it could mean a loss of $935,000 in federal dollars for state transportation projects.

The Commissioner of the Department of Highways testified about the repairs made to Kentucky Lake's Eggner's Ferry Bridge, which was damaged in a ship collision on January 26, 2012. The Federal Highway Administration approved emergency federal funding to replace the span that was torn off, and legal proceedings will determine whether those funds are reimbursed by the owner of the ship. The new truss was constructed upstream from the bridge site and floated to the site, with the new span opening to traffic on May 25, in time for Memorial Day weekend.

The Executive Director of the Office of Project Development discussed the progress of the two new spans across Kentucky Lake and Lake Barkley.

Representatives from Kentuckians for Better Transportation and the Kentucky Transportation Center presented a report on funding for non-highway modes of transportation. The report focused on aviation, public transit, rail, and water transport, comparing Kentucky to other states. It emphasized the need for dedicated revenue streams for the non-highway modes.

The Operations and Pavement Management Branch Manager reported on the process for inspecting and evaluating pavement conditions throughout Kentucky. Beginning in 2013, a truck-mounted laser imaging system will be used to make those inspections and evaluations. The current annual need for pavement maintenance is $147 million, while the FY 2013 budget for that purpose was $97 million. The imbalance will lead to an increased number of roads in poor pavement conditions.

Report of the 2012 Interim Joint Committee on Banking and Insurance

Sen. Tom Buford, Co-Chair
Rep. Jeff Greer, Co-Chair

Sen. Jared Carpenter
Sen. Julian M. Carroll
Sen. Julie Denton
Sen. Tom Jensen
Sen. Dennis Parrett
Sen. Jerry P. Rhoads
Sen. Dorsey Ridley
Sen. John Schickel
Sen. Dan "Malano" Seum
Sen. Brandon Smith
Rep. Johnny Bell
Rep. Dwight D. Butler
Rep. Will Coursey
Rep. Ron Crimm
Rep. Robert R. Damron
Rep. Mike Denham
Rep. Ted Edmonds
Rep. Joseph M. Fischer
Rep. Danny Ford
Rep. Jim Gooch
Rep. Sara Beth Gregory
Re. Mike Harmon
Rep. Dennis Horlander
Rep. Brent Housman
Rep. Dennis Keene
Rep. Adam Koenig
Rep. Michael Meredith
Rep. Brad Montell
Rep. David Osborne
Rep. Sannie Overly
Rep. Ryan Quarles
Rep. Jody Richards
Rep. Steve Riggs
Rep. Arnold Simpson
Rep. Kevin Sinnette
Rep. Wilson Stone
Rep. Tommy Thompson
Rep. John Tilley
Rep. David Watkins

LRC Staff: Rhonda Franklin, Sean Donaldson, and Jamie Griffin

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Banking and Insurance

Jurisdiction: Matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity, and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

Committee Activity

The Interim Joint Committee on Banking and Insurance met two times during the 2012 Interim.

Banking

Representatives of the Kentucky Bankers' Association reported that Kentucky's state banks are financially strong and doing well, despite changes made in recent years by Congress and the federal government. There are 196 state banks in Kentucky, and more than half are at least 100 years old.

The Commissioner of the Department of Financial Institutions updated the committee on the international, national, and state economic conditions and banking trends. The Commissioner addressed the European fiscal crisis and its impact on the United States economy. The European fiscal crisis is due to excessive deficits, including the debt in Greece, the collapse of housing booms in Spain and Ireland, and debt and account deficits in Italy and Portugal. The result for the United States includes diminished exports, dollar volatility, and investors' reduced euro assets. The United States and European nations are significantly linked through trade and financial channels, with European nations being among the United States' largest trading partners, accounting for 17 percent of United States' goods traded. In addition, the United States money market funds hold core European bank debt.

The Commissioner addressed the federal regulatory status of regulations that have been finalized or proposed under the Dodd-Frank Act, and the status of required regulations that have not been proposed. Despite current economic conditions, Kentucky state banks remain strong. Future banking trends, as a result of federal regulations and increased scrutiny by federal regulators, will impact both national and state banks and other financial institutions. Increased regulation of the financial industry will result in the following changes:

- increased review of institutions;
- a search for alternative sources of capital;

- management planning, including succession and required board expertise;
- interest rate risk involving floors, margin compression, and when and how fast rates will rise; and
- technology improvements including payment systems, phone swipe of credit cards, and increased online bill payment.

Insurance

The Commissioner of the Department of Insurance stated that the department has no potential legislation for the 2013 session and reported on the current state of the insurance industry in Kentucky. The Commissioner stated that

- Kentucky's insurance market is healthy, citing the number of licensed insurers, the status of the captive insurer market, and the addition of 13 companies in 2011 and 21 companies to the state's market;
- the department's information technology has been enhanced with its "eServices" website, which allows electronic submission of insurers' rate and form filings, company admissions, and financial reporting. This has resulted in significant department savings;
- the local government premium tax collected in 2011 resulted in approximately $242 million paid to local governments. About $98 million was collected for the Kentucky Law Enforcement Foundation Program Fund in 2011 to provide training for local firefighters and law enforcement personnel;
- fraud investigations by the department increased from 2011 to 2012, mainly because of increased staged automobile accidents, prescription drug fraud, and private sector fraud;
- the Consumer Protection Division averaged 4,608 complaints per year with an annual recovery for insureds averaging $6.1 million per year; and
- department staff has worked to comply with the requirements of the Affordable Care Act and to ensure that health insurance covers the cost for individuals required to undergo drug screening as a result of the 2012 "Pill Mill" bill and subsequent regulations.

Committee members asked the Commissioner to provide additional information to the committee on the status of the department's personal service contracts.

Health Insurance

Representatives of the Kentucky Bankers Association and the Kentucky Home Builders Association testified about the potential effect of the Affordable Care Act on association health plans in Kentucky. They expressed concerns regarding affordability, access, and coverage.

Workers' Compensation

The Commissioner of the Department of Workers' Claims testified that the state's workers' claims statutes have not been amended since 1996. Five areas of the workers' claims statutes need to be amended to ensure a fair and equitable resolution of claims by injured Kentucky's workers:

- Amend the requirement that benefits cease when an injured worker qualifies for Social Security since many workers continue to work after they qualify, and if injured they will not have a valid claim for benefits;
- Amend the factors for determination of permanent partial disability as the current factors in the statutes are insufficient, with the use of the American Medical Association rating of most injuries resulting in 5 percent to 10 percent disability;
- Amend the current attorney fees for a claim, which were capped at $12,000 per claim in 1996, resulting in approximately 40 percent of all workers' compensation claimants representing themselves due to an inability to find an attorney to represent them, and physician fees for recordkeeping, which were capped in 1994;
- Address the use of multipliers created for permanent partial claims in 2000 which were nullified for all practical purposes by a subsequent Kentucky case; and
- Address the growth of prescription drugs as the largest growth factor, accounting for 65 percent of each workers' compensation dollar.

Insurance Studies

Representatives of Eastern Kentucky University (EKU), including the dean of the College of Business and Technology and the director of the Insurance Studies Program, gave a status update of the university's insurance program. EKU has the only insurance studies program at any college in Kentucky. The number of students has increased significantly during the last 4 years. The program emphasizes risk management.

Report of the 2012
Interim Joint Committee on Economic Development and Tourism

Sen. Alice Forgy Kerr, Co-Chair
Rep. Leslie Combs, Co-Chair

Sen. Jared Carpenter
Sen. Julian M. Carroll
Sen. Julie Denton
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Jerry Rhoads
Sen. Tim Shaughnessy
Sen. Kathy W. Stein
Sen. Katie Kratz Stine
Sen. Jack Westwood
Sen. Ken Winters
Rep. Julie Raque Adams
Rep. Royce W. Adams
Rep. Linda Belcher
Rep. Kevin D. Bratcher
Rep. John "Bam" Carney
Rep. Larry Clark
Rep. Will Coursey
Rep. Jim DeCesare
Rep. Mike Denham
Rep. Bob M. DeWeese
Rep. Myron Dossett
Rep. Ted Edmonds
Rep. Jim Gooch, Jr.
Rep. Jeff Greer
Rep. Keith Hall
Rep. Mike Harmon
Rep. Melvin B. Henley
Rep. Dennis Horlander
Rep. Wade Hurt
Rep. Dennis Keene
Rep. Thomas Kerr
Rep. Kim King
Rep. Martha Jane King
Rep. Adam Koenig
Rep. Tom McKee
Rep. Terry Mills
Rep. David Osborne
Rep. Fred Nesler
Rep. Ruth Ann Palumbo
Rep. John Short
Rep. Fitz Steele
Rep. Wilson Stone
Rep. Tommy Thompson
Rep. Addia Wuchner
Rep. Jill York

LRC Staff: John Buckner, Louis DiBiase, and Dawn Johnson

Presented to the
Legislative Research Commission
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2013 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

Task Force on Economic Development

Sen. Alice Forgy Kerr, Co-Chair
Rep. Ruth Ann Palumbo, Co-Chair

Sen. Jared Carpenter
Sen. Julian M. Carroll
Sen. Julie Denton
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Jerry P. Rhoads
Sen. Tim Shaughnessy
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Rep. Thomas Kerr
Rep. Kim King
Rep. Adam Koenig
Rep. Terry Mills
Rep. Fred Nesler
Rep. John Short
Rep. Wilson Stone
Rep. Tommy Thompson

Rep. Leslie Combs, ex officio

LRC Staff: John Buckner, Louis DiBiase, and Dawn Johnson

Interim Joint Committee on Economic Development and Tourism

Jurisdiction: Matters pertaining to commerce, industry, and economic and industrial development not specifically assigned to another committee; economic development planning, international trade, and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising.

Committee Activity

During the 2012 Interim, the committee held four meetings in Frankfort and one meeting out-of-town.

Kentucky Bourbon Trail

The newly appointed manager of the Kentucky Bourbon Trail testified about the growth of Kentucky's bourbon industry and the increasing popularity of the trail. Kentucky produces 95 percent of the world's bourbon, with production increased by 115 percent since 1999. Inventory is the highest since 1977, with a projected assessed tax value of $1.7 billion—an increase of $350 million from 2011. Because of this consistent growth, the distilleries continue to expand production and warehousing capacity. Wild Turkey's $94 million expansion includes a new bottling center and warehouse along with 70 new jobs. Maker's Mark's $54.3 million expansion includes a new visitors' experience and increased distillation capacity. Jim Beam's $54 million expansion includes a new visitors' experience and an additional 120 jobs in Frankfort. Alltech is building a $6 million distillery in downtown Lexington, Brown Foreman is investing approximately $4.5 million in its facility, and Heaven Hill and Four Roses have undertaken multimillion-dollar facility expansions to accommodate tourism. The total investment since 2011 is $218.5 million.

Kentucky Bourbon Trail participation has increased 30 percent in the past year. In the past 5 years, nearly 2 million people have participated in the Bourbon Trail, with approximately 12,000 people completing the trail. The Bourbon Trail is also a tourism driver for area hotels and businesses. New to the Bourbon Trail experience is a line of merchandise available online and at distilleries.

Travel- and Tourism-Related Businesses in the Commonwealth

The newly appointed President of the Kentucky Travel Industry Association (KTIA) testified that the agency's mission is to promote, enhance, and unite the tourism industry through governmental interaction, awareness, professional development, and education. KTIA is a nonprofit organization with more than 950 members. Tourism and travel collectively is the third largest industry sector in Kentucky, with a financial impact of $11.7 billion in 2011. The industry employs more than 170,000 people, generating $3.3 billion in wages and $500 million in tax revenue annually.

The Director of the Newport Aquarium described the benefits of Tourism Development Act tax credits. Investment projects drive out-of-state tourism, with 80 percent of the aquarium's revenue coming from out-of-state visitors. Each tourism dollar has a return of $1.43 in economic impact. The Tourism Development Act has allowed companies to compete nationally with other development projects.

Representatives from the Elizabethtown Convention and Visitors Bureau explained the function and importance of convention and visitors bureaus in helping to produce a positive economic effect for travel-related businesses. They stated that it is important to maintain the integrity of the transient room tax and restaurant taxes. Other concerns included decreased funding to the Tourism, Arts and Heritage Cabinet, the lack of casino gambling, and the lack of alcohol sales in dry counties. They said that counties that sell alcohol are more tourism friendly.

"There's Only One" Marketing Campaign, Kentucky Department of Travel and Tourism

The Secretary of the Tourism, Arts and Heritage Cabinet discussed alcohol sales in selected state parks, sales volume, and money generated through sales. There has been no negative incident since liquor by the drink was introduced at select state parks. Recent sales data reflects revenue from alcohol sales of more than $110,000. The cabinet continues to work with meeting and convention groups to market alcohol sales.

The Deputy Commissioner of the Department of Travel and Tourism testified about the "There's Only One" marketing campaign, which emphasizes 44 destinations unique to Kentucky. Marketing includes television, radio, Internet, and print publications, and special events and social media. Television and radio commercials have been broadcast to contiguous states, and print ads were placed in 26 publications in the spring.

Economic Development Initiatives (2011 HJR 5)

2011 House Joint Resolution 5 mandated a study of Kentucky's economic development incentive programs. Anderson Economic Group, LLC, a research and consulting firm specializing in economics, public policy, industry and market analysis, and business evaluation, was commissioned by the Legislative Research Commission to conduct the study. The study, *Review of Kentucky's Economic Development Incentives*, is available on the LRC webpage. Representatives from Anderson Economics presented the study to the committee.

The report reviews the state's major incentive programs, answers specific questions, and provides information for future policy-making. It compares Kentucky's business environment and incentives to 13 peer states, evaluates the use of incentives to attract high-tech and knowledge-based jobs, reports the number of firms receiving incentives and estimates the number of jobs at these firms, estimates the "gross cost" of the incentives to the Commonwealth, evaluates reporting on incentive programs, and discusses the process of selecting the secretary of the Cabinet for Economic Development (CED).

The study looked at jobs data of firms receiving economic incentives. Kentucky offers seven incentive programs with a jobs requirement. CED collects detailed data on the firms that receive incentives to ensure compliance. It was emphasized that the study does not and cannot make the claim that jobs reported were a direct result of incentives. From 2001–2010, there were 577 companies receiving incentives. On average, approximately 5,500 jobs were created and 33,000 jobs were maintained per year, totaling 55,000 jobs created and 330,000 jobs maintained over 10 years. Firms that received incentives generally reflected higher overall wages. One explanation may be that companies paying lower wages do not have access to incentive programs. The wages of participating companies are not higher than those of comparable firms within the same industry.

The cost of Kentucky's incentive programs for the period reviewed has been approximately $1.3 billion, with most being revenue foregone by tax credits. This equals $130 million per year, or $23,000 per job created, and $3,300 per job per year.

The "effectiveness threshold analysis" was discussed in the report, which looked at the effectiveness of certain incentive programs versus alternative policies such as broad-based tax cuts. While the Kentucky Industrial Development Act, Kentucky Rural Economic Development Act, Kentucky Jobs Development Act, and Bluegrass State Skills Corporation credits were in the middle to high range of the effectiveness threshold, the Office of Commercialization and Innovation (OCI) High-Tech Pools were failing to be more effective than a broad-based tax change for all companies. However, continuance of the OCI program may be beneficial because of its target audience.

Compared to other states, Kentucky has a lower employment level in knowledge-based sectors but has experienced faster growth, specifically in biological industries and research-relevant, advanced manufacturing industries. Kentucky is above national and peer averages in employment and payroll share in advanced manufacturing industries and performs better than its peers in research spending and degrees awarded per capita. Among the population, education attainment is lower than in many peer states and graduate retention is problematic. Referring to Kentucky's use of incentives to target high-tech and knowledge-based firms, 14 incentive programs are available along with industry-specific incentives. Kentucky lags peer states in incentives for infrastructure, start-up companies, and technology development.

Comparing business environment with peer states, Kentucky has a competitive business tax environment, average infrastructure, lower education attainment, and a labor force with lower than average career readiness and lower median average hourly pay rate. Economic incentives are comparable to those in peer states, and Kentucky is above average in incentives with jobs requirements. Comparing use of incentives to address business factors, Kentucky performs well with corporate and individual tax rates, property tax rates, and construction and labor costs, but lags in the areas of quality highway and infrastructure access and with the availability of skilled labor.

The report found that because most of Kentucky's incentive programs are performance-based, there is no need for claw-back clauses. The OCI high-tech pool has a claw-back provision, and less than 6 percent of all funds dispersed have been returned.

In looking at the CED secretary selection process, the report found that Kentucky's approach of using a national search firm differs from the approach in peer states. The secretary's salary is $250,000, compared to an average of $100,000 in peer states. There could be other compensation components, and job requirements may vary.

Adventure Tourism

The committee met at the Salato Wildlife Education Center, Frankfort, which hosts 75,000 visitors annually.

The Executive Director of the Office of Adventure Tourism explained the mission of Kentucky's adventure tourism program. The office has published an updated guide outlining the state's adventure tourism activities and outfitters based on an in-depth, statewide study. The study revealed a lack of understanding of adventure tourism, little coordination to maximize services and supplies, and no specific destinations. The office website was updated to be more appealing and user friendly, and in the spring of 2012 a marketing campaign included online marketing that has proven to be successful based on user interest.

There has been an increase in adventure tourism infrastructure, with some projects made possible by the tourism loan program. There are seven new zip line businesses and three horse camps, as well as more multiuse trails at Kentucky state parks, new construction projects, and ongoing efforts with private landowners for more land access. The economic impact of adventure tourism can be up to $240 per person per overnight visit. The average adventure traveler is generally more educated and affluent than the typical traveler. Adventure tourism benefits health because outdoor activities tend to require greater physical exertion.

The committee heard information about the Kentucky Trail Town Development and Recognition Program. By definition, a trail town is a portal to a trail system, either by water or land access that offers services and supplies for trail users. To qualify, participating towns should provide friendly and knowledgeable services about trails and services and should be willing to share their culture and history. The Office of Adventure Tourism has connected with potential and participating towns, gathered information, and provided guidance and resources where needed. The Trail Town Task Force, composed of various interest groups and community officials, was created to help oversee the process.

A presentation was given about the development of the Pine Mountain Trail as a part of the Appalachian Great Eastern Trail. In setting up the Pine Mountain Trail, coordinators began working with the National Park Service's Rivers, Trails and Conservation Assistance Program. A nonprofit group was formed to promote the development of these trails, and the Patton administration designated the Pine Mountain State Scenic Trail. Since then, the project has received approximately $4 million in grants. Currently, the trail is 56 miles long and extends from the Breaks Interstate Park to Kingdom Come State Park. There are three overnight shelters; a fourth is under construction in Pike County. Because there are few access points to the trail, coordinators are working on creating more trailhead. All work is done through volunteer labor. The trail has had more than 4,000 volunteers with 160,000 hours and $2.5 million in donated labor.

Cooperative Efforts and Initiatives Between Lexington and Louisville to Promote Economic Development

The committee traveled to Midway College to receive a presentation about cooperative efforts between Lexington and Louisville to promote economic development. The Mayor of Lexington explained the Business Economic Advancement Movement, an initiative formed by Louisville and Lexington to promote regional manufacturing and logistics. The initiative is supported by the Mayors' Project, a program created by Bloomberg Philanthropies to help mayors by using "Innovation Delivery Teams" to address cities' ongoing challenges. After a meeting with the Brookings Institute, the Mayor of Louisville met with his Lexington counterpart to discuss the institute's Metropolitan Business Plans that have been developed for other regions. While there has always been a healthy competition between Louisville and Lexington, the program goal is simply about jobs—creating higher wages and higher-value jobs for the future. The plan is based on market-driven analysis and planning. While studies conclude that record numbers of people are migrating to cities and productivity is growing, the plan will benefit surrounding regions as well.

The Brookings Institute's Metropolitan Business Plan focuses on core industries and strengthening through "lead initiatives" in terms of talent, investment, jobs, and training. The program has been successful in other cities and includes renewed manufacturing in northeastern Ohio, start-ups in the Minneapolis and St. Paul area, alternative energy initiatives in Puget Sound, Washington, and data driven decision-making across industries in central New York.

Elements of the plan included the creation of a board and business community outreach. The board consists of university leaders and business and manufacturing representatives. Through community outreach, it was determined that it is consistently difficult for manufacturers to find qualified, skilled employees. Also, the perception of manufacturing jobs is problematic. Data collected suggested a focus on advanced manufacturing as a common industry cluster.

The Director of the Louisville Innovation Delivery Team said the Bloomberg Foundation is interested in what is replicable in other cities, and the importance of manufacturing was emphasized. While job vacancies exist, the skills employees need are not easily obtained. Manufacturing jobs have a 2:1 multiplier effect. Exports and innovation are the main components of the plan. To assist in skills development, the Kentucky Association of Manufacturing has joined the "Dream It Do It" program, which was created to rebrand manufacturing by making it more attractive as a career, and the Science, Technology, Engineering, and Manufacturing Education Coalition has created "Project Lead the Way," which focuses on engineering and engineering technology education in middle and high schools. The Kentucky Community and Technical College System's new strategic plan includes more manufacturing program. The manufacturing industry will see a major retirement wave over the next 10 years.

Other areas receiving attention in Louisville include reducing health care costs through restructuring emergence medical services, and converting vacant/abandoned properties to productive use.

Subcommittee Activity

Task Force on Economic Development

The Task Force on Economic Development did not meet during the interim.

Report of the 2012
Interim Joint Committee on Education

Sen. Ken Winters, Co-Chair
Rep. Carl Rollins, Co-Chair

Sen. Walter Blevins, Jr.
Sen. Jared Carpenter
Sen. David Givens
Sen. Denise Harper Angel
Sen. Jimmy Higdon
Sen. Alice Forgy Kerr
Sen. Vernie McGaha
Sen. Gerald Neal
Sen. R.J. Palmer II
Sen. Johnny Ray Turner
Sen. Jack Westwood
Sen. Mike Wilson
Rep. Linda Belcher
Rep. Regina Petry Bunch
Rep. John "Bam" Carney
Rep. Hubert Collins
Rep. Leslie Combs
Rep. Jim DeCesare
Rep. Ted Edmonds
Rep. C.B. Embry
Rep. Bill Farmer
Rep. Kelly Flood
Rep. Jim Glenn
Rep. Derrick Graham
Rep. Donna Mayfield
Rep. Reginald Meeks
Rep. Charles Miller
Rep. Rick G. Nelson
Rep. Ruth Ann Palumbo
Rep. Ryan Quarles
Rep. Marie Rader
Rep. Jody Richards
Rep. Tom Riner
Rep. Bart Rowland
Rep. Rita Smart
Rep. Wilson Stone
Rep. Ben Waide
Rep. David Watkins
Rep. Addia Wuchner
Rep. Jill York

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

Presented to the
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Subcommittee Organization and Membership

Subcommittee on Elementary and Secondary Education

Sen. Vernie McGaha, Co-Chair
Rep. Ted "Teddy" Edmonds, Co-Chair

Sen. Walter Blevins, Jr.
Sen. David Givens
Sen. Denise Harper Angel
Sen. Jimmy Higdon
Sen. Jack Westwood
Rep. Linda Belcher
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Rep. Wilson Stone
Rep. Ben Waide
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Sen. Ken Winters, ex officio
Rep. Carl Rollins II, ex officio

LRC Staff: Janet Stevens, Ben Boggs, and Daniel Clark

Subcommittee on Postsecondary Education

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Rep. Rita Smart
Rep. David Watkins
Rep. Addia Wuchner

Sen. Ken Winters, ex officio
Rep. Carl Rollins II, ex officio

LRC Staff: Jo Carole Ellis, Ken Warlick, and Lisa Moore

Interim Joint Committee on Education

Jurisdiction: Matters pertaining to elementary, secondary, and postsecondary education; the Department of Education; the powers and duties of local boards of education; state support of education; operation of school districts; conduct of schools; attendance; curriculum; pupil transportation; school property and buildings; teachers' qualifications, certification, and retirement; vocational education and vocational rehabilitation; state universities and colleges; community colleges; regional education; educational television.

Committee Activity

The Interim Joint Committee on Education met six times during the 2012 Interim. Four of the meetings were in Frankfort, and two were site visits. The committee heard a series of program reports relating to primary through postsecondary education including adult education, GED, and literacy programming; assessment and accountability system updates; preschool funding; teacher preparation and certification: initiatives for high performing students; Kentucky Youth ChalleNGe—Credit Recovery program; the P-20 data system; the Murray State University Program of Distinction, and other postsecondary education completion initiatives.

End-of-Course Science Tests

Kentucky Department of Education (KDE) staff reported that Kentucky and 26 other states are working with Achieve, Inc. to develop science standards for instruction and assessment. The new standards embed more engineering principles throughout the science standards. The final release of the science standards will be in early 2013.

KDE introduced end-of-course assessments into the high schools in 2010. The ACT-developed end-of-course science assessment is being piloted for use by multiple ACT clients. There was extensive discussion about whether evolution should be taught and assessed as a scientific theory or a scientific fact. ACT staff indicated that custom assessments could be made available as a contract option. The contract for end-of-course assessments for the current year is $5.2 million, and the funding is a combination of state and federal money.

Persistently Low-Achieving Schools

Jefferson County Public Schools (JCPS) staff reported on four school improvement focus areas designed to decrease the number of persistently low-achieving (PLA) schools in the district. The focus areas are:

- Increased Learning: Every student makes progress and meets or exceeds proficiency in all subjects;
- Graduation and Beyond: Every student graduates prepared for a postsecondary choice for college, career, and life;

- Stakeholder Involvement and Engagement: Parents, community, and partners enrich students' educational experiences and support their success; and
- Safe, Resourced, Supported, and Equipped Schools: All schools have staff, resources, and equipment to support student needs.

JCPS is developing a districtwide professional development plan to prepare approximately 15,000 employees to improve school climate and learning environments. The district has realigned its budget to hire 80 elementary assistant principals to provide principals more time to engage in instructional leadership. Research indicates that principals actively observing in classrooms contribute to higher levels of instruction and student achievement.

JCPS is developing a system for identifying, addressing, and monitoring the needs of students who live in poverty and who are failing to achieve academically. JCPS projects that 70 percent of JCPS students live in poverty, based on the number of students receiving free and reduced-price lunches. JCPS has a student population of 101,000, and almost 10 percent are homeless. The free and reduced lunch rate is 69.8 percent, and the poverty rate of the Louisville community is 40 percent.

Leslie County district staff also discussed PLA school initiatives. The elementary schools have implemented a research-based reading program at the primary level with support from the Elgin Foundation. A new math program was purchased for grades K-6 that includes the new national math common core standards.

The district received an Excellence in Education award, presented by the local chamber of commerce, in recognition for improvements in all schools. Last year, more than $3 million in scholarships were awarded to Leslie County high school seniors for postsecondary education. Leslie County High School was recognized last year as one of the most improved high schools in the state, consistently ranking in the top 20 on state assessment results in various categories. The school met all the No Child Left Behind (NCLB) goals in 2011. The Commissioner of Education also recognized the school for gains in college and career readiness.

Metcalfe County Schools' staff discussed the district PLA improvement plan. Improvements in student achievement were cited as a result of the district's focus on curriculum, assessment, instruction, school culture, community support, professional growth, leadership, school organization, and effective planning. The ACT composite scores increased from 16.4 to 19.0 between the 2008 to 2011 years.

Review of Administrative Regulation on Assessment Accommodations

The Kentucky Department of Education (KDE) staff explained 703 KAR 5:070, Procedures for the Inclusion of Special Populations in the State-Required Assessment and Accountability Programs. KDE amended the regulation to update terminology and requirements consistent with KRS 158.6453; KRS 158.6455; the NCLB Act of 2001; the Individuals with Disabilities Education Act and its federal regulations; and Section 504 of the Rehabilitation Act of 1973, as amended, and its federal regulations. The proposed amendments would have updated the procedures for accommodations to include limitations on the use of readers on reading tests; limitations of the use of calculators on portions of the math assessments; clarification of procedures for assessing students with Limited English Proficiency; clarification of conditions for use of prompts, cues, and manipulatives; prohibiting the use of student-generated glossaries for English language learners; removing outdated terminology; providing a waiver for students with special circumstances; and reorganizing the document incorporated by reference to improve overall clarity.

The proposed procedures would allow readers in mathematics, social studies, and science because those assessments test content knowledge and not reading ability. The regulation did not have prohibitions on the use of a reader in the instructional classroom on a day-to-day basis.

The new assessment is based on the common core standards in reading and mathematics. The reading assessment contains decoding and comprehension measurements. Decoding is a term for reading the symbols represented in printed text, and the use of a reader would not generate a valid score measuring student proficiency in decoding.

KDE reported that 41 out of 50 states do not allow students with disabilities to use a reader. The other nine states allow the limited use of a reader. Kentucky has the second highest number of students in the country whose scores are excluded from fourth- and eighth-grade reports on the National Assessment of Educational Progress (NAEP) because NAEP policies do not consider scores generated using a reader accommodation as valid.

After receiving public comments, the Kentucky Board of Education modified the prohibition on the use of readers on the reading test. For a student with a disability who, due to the severity of the disability, was documented as unable to access the reading assessment without the use of a reader, the district could apply to KDE for a waiver to use the read-aloud accommodation not otherwise permitted in the administrative regulation. The regulation did not include an appeal process if schools disagreed with KDE’s decision.

Details of the administrative regulation were explained to numerous superintendent groups, and KDE had communicated the forthcoming changes to school districts and special education advisory groups. A question-and-answer document was sent to district assessment coordinators and directors of special education in the spring of 2012.

Various advocacy groups spoke against the proposed amendments at the meeting. KDE staff agreed to defer 703 KAR 5:070 until October, with the intention to defer again to November. (Note: The proposed amendment was subsequently withdrawn by the Kentucky Board of Education.)

P-20 Data System

The P-20 Data Collaborative is a cooperative project among the Council on Postsecondary Education (CPE), the Education Professional Standards Board (EPSB), and KDE. This comprehensive data system links numerical information regarding early childhood, K-12, teacher certification, workforce, unemployment insurance, and other areas to provide better information pertaining to the comprehensive impact of state policies and practices.

The Executive Director of the collaborative said the system has the capability to link high school and college data and will give a better understanding of how high school experiences affect college-going and success rates. It will link preschool and early childhood information to kindergarten and elementary school performance, providing information on whether children enter schools with the skills needed to be successful.

Teacher preparation programs will benefit from the P-20 collaborative by gaining an understanding of how well graduates are affecting student learning in the classroom. Programs can be modified to ensure that future teachers enter the classrooms with the skills they need to have the greatest impact on students' learning.

Linking education and employment records in the future will provide data on whether Kentucky graduates are entering the workforce and earning a reasonable wage. Data will indicate how well Kentucky colleges are meeting the needs of local industries and what the return on investment is for education and training programs.

The P-20 data system is being developed through a grant from the United States Department of Education, Institute for Education Sciences, and the Statewide Longitudinal Data Systems program. Most states are in the process of developing similar systems. Providing better data will inform decision making at the local and state levels. To receive federal money for education in the future, states must be able to report data on college going and success and employment of graduates, as well as other issues that can be addressed only through a system of this nature.

Preschool Funding

KDE staff from the Office of Administration and Support said the department has received many questions about preschool funding in response to the allocations letter sent to the superintendents on May 4. Many superintendents asked why preschool funding had such variation and whether the preschool budget was cut during the 2012 legislative session. Preschool funding was not cut, and the General Assembly fully funded preschool.

Staff stated that the problem is with the interpretation of the preschool funding formula that has been in place since 1992. A regulation links funding for eligible students with disabilities and at-risk children. KDE has made a commitment to superintendents to request legislation to simplify the formula and process. The Commissioner of Education added that a factor in the confusion was a year of self-reporting rather than the use of an electronic database.

Kentucky Youth ChalleNGe Program and Credit Recovery

The Kentucky Youth ChalleNGe program is a National Guard initiative for high school dropouts. Currently there are two programs in Kentucky, the Bluegrass ChalleNGe Academy in Hardin County and the Appalachian ChalleNGe Academy in Harlan County. In addition to the GED approach, the academies offer a computer-based instructional program providing credit recovery and the opportunity to earn a regular high school diploma subject to acceptance of the courses by the student's home school district. The school district in which a ChalleNGe academy is located can award diplomas only to students who are residents of the district. There have been 2,340 Kentucky Youth ChalleNGe graduates since 1999.

KDE staff indicated that the average daily membership of ChalleNGe academy students is tracked through the Infinite Campus data program for each of the 22-week sessions. KDE provides a portion of the Support Education Excellence in Kentucky fund allocation (current base amount $3,833) to the academies for each session prior to distributing the balance to the 174 school districts. KDE has budgeted $1.5 million to cover a projected maximum academy enrollment of 400. The academies have not completed the application process to be considered a certified high school, but such certification could be problematic since admission to the academies is contingent on the students' status as dropouts.

Gatton Academy

The Gatton Academy has enrolled students from 107 counties over the last 5 years. The school will start the 2012-2013 school year with 126 students. The school's high test scores are an indicator that the school selects some of the brightest students across the state. The curriculum consists of chemistry, biology, physics, math, and computer science. At least 75 percent of the graduates will complete one to two semesters of research.

The Executive Director for the Center for Gifted Studies explained that Gatton Academy students stay enrolled in their local high schools. Therefore their test scores and honors track back to their local high schools. Of the students who graduate from Gatton Academy, 71 percent stay in Kentucky to attend college.

Gifted Education

The President of the Kentucky Association for Gifted Education said funding for gifted education has remained flat for two decades. She said the first funding for gifted education was in the 1978-1979 school year in the form of block grants. The following year statewide funding was provided at $1,118,600. At that time it was left up to each school district to identify gifted students. She said funding for gifted education was at its highest level—$7,406,000—in 2000 and has been dropping ever since.

The Superintendent of Knox County Schools said many students in his district need the kind of exposure, opportunity, and curriculum that gifted education can provide. The Superintendent of Bullitt County Schools said the district receives about $67,000 in a state grant but spends an additional $370,000 on its gifted programs. He said funding is not sufficient to meet the needs of all of the students who could benefit. Two years ago, Bullitt County started an advanced math and science program that is now serving 60 students.

The Executive Director of the Center for Gifted Studies said there are unintended barriers and policies in school districts that can keep kids from learning at higher levels. On the Teaching, Empowering, Leading & Learning survey given across the state to teachers, more than half the teachers said they need more professional development on teaching gifted and talented children, on teaching special education children, and on differentiating the curriculum to meet the wide range of learners.

Advance Kentucky

The Executive Director of Advance Kentucky discussed annual trends relating to Advance Kentucky performance. KDE and CPE have become aggressive sponsors. Berea College has also become a new sponsor by including Advance Kentucky in four federal grants the college has received. Although resources are increasing, it is not enough to sustain the effort.

Advance Kentucky's model and curriculum is based on Advanced Placement college-level courses taught to high school students. If the students earn a qualifying score of a 3, 4, or 5, they can qualify to earn college credit.

Bullitt County Schools College Partnership Initiatives

There is a unique partnership between Bullitt County Public Schools and the Jefferson Community and Technical College (JCTC) Bullitt County Campus. The partnership is based on a series of purposeful action steps designed around the concept that successful completion of some amount of college credit while in high school is an influential factor in obtaining gainful employment and persisting in postsecondary education after graduation.

The 12x12 Middle College program is designed to give college-ready high school juniors and seniors the opportunity to become acclimated to college culture through the pursuit of college credit in a traditional college campus setting. All classes occur at the Bullitt County campus of JCTC. The program began in August 2008 and has expanded to include high school juniors, who may take two classes per semester, earning up to 24 college credits by the end of their high school careers.

The Bullitt Advanced Math and Science Middle College program students spend the first 2 years of high school in an intensive secondary education experience where they complete a significant portion of the credits required for a high school diploma through in-person, hybrid, or online instruction. The junior and senior years of high school are spent at the Bullitt JCTC campus, where students move as a cohort group through traditional classroom settings with other college students and complete the requirements for an Associate's Degree in Science or Arts while fulfilling the requirements for high school graduation.

There is an 81 percent persistence rate for students staying enrolled in college upon completion of the Bullitt County Middle College programs. Staff stated that this is significant because historically a large percentage of Bullitt County students would enroll in college upon graduation but then drop out. The district goal is for students to attend graduate school and find employment in the Bullitt County area.

55,000 Degrees Project

The Louisville 55,000 Degrees Project is a degree effort resulting from teamwork among education, business, and civic leaders who served on an education roundtable established in 2008. The Greater Louisville Education Commitment, signed in May 2010, set the goal of increasing the number of associate's and bachelor's degrees in Louisville by 55,000 over 10 years. This initiative is intended to position Louisville to attract well-paying jobs.

Progress reports indicate the number of working-age adults with college degrees increased by approximately 7,000 from 2008 to 2009 in Louisville. Over the last 10 years, Louisville posted the second largest increase in degree holders among 15 cities used as benchmarks. The number of degrees awarded locally in 1 year increased 14 percent for 2-year degrees and 7 percent for 4-year degrees. Working-age adults with some college returning to school have also increased 20 percent in 1 year, partly in response to a difficult job market.

The Mayor of Louisville said the city still faces many challenges. Far too many college freshmen arrive unprepared to begin their coursework. He said 90,000 working-age adults have some college credits but have not completed their degrees. He noted that, over the past year, Greater Louisville Inc., working with the business community, has launched a new program for local employers to help their employees complete college.

The Executive Director of the 55,000 Degrees Project said 55,000 Degrees has five main objectives: create a college-going culture; use the business community's leverage to accelerate attainment; prepare students for success in college, careers, and life; make postsecondary education accessible and affordable; and increase educational persistence, performance, and progress.

Approximately 75 percent of Louisville's high school graduates enroll in college. However, college-going rates vary widely by high school, ranging from 27 percent to 100 percent. In 2010, only 69 percent of the Jefferson County students who had begun high school 4 years earlier stayed to graduate. The project director said Louisville needs to decrease the number of high school dropouts in order to increase college enrollment.

CEOs for Cities reported that increasing college graduates by 1 percent would equal $900 million in 1 year in personal aggregate income. For Louisville, this is $4.5 billion by 2020 if the 55,000-degree goal is met. An economic benefit of cutting the number of JCPS dropouts in half would be $27 million in increased earnings, $19 million in increased spending, and $4 million in tax revenues as reported by the Alliance for Excellent Education.

The Mayor said the cost of the program is $900,000 for the first 3 to 4 years. He said that this is not a significant amount and that most of the work is contributed by volunteers in the community. The program is gaining national attention.

Murray State University

The Associate Vice President of Murray State University (MSU) said that in the fall of 2011 MSU had an enrollment of 10,623 students, of which 1,520 were first-time freshmen. MSU has five regional campuses in Henderson, Madisonville, Hopkinsville, Fort Campbell, and Paducah. MSU has made the list of *Forbes* magazine's 100 best college buys in the United States for the last 3 years. For 22 consecutive years, *U.S. News and World Report* has ranked MSU as a top-tier institution in the United States. MSU is the highest ranked public comprehensive institution in the Commonwealth.

MSU has had a 40 percent increase in degrees awarded since 1998, and the graduation rate is the second highest in the Commonwealth behind the University of Kentucky at 53.7 percent. The residential college system at MSU has made a difference in how students are recruited and retained. MSU has a very high retention rate for first-time freshmen. The Vice President noted how important affordability and accessibility are today, and MSU's tuition and fees rank well compared to those of the other state institutions.

The science campus project started in 1998 is a multiyear and multiphased capital construction project. The final phase will be the engineering and physics building, a $33 million facility that is MSU's first construction priority. MSU needs approval for a $9.9 million renovation for Hester College and $5.53 million for capital renewal pool projects. In the last several years, MSU has had a very active fundraising campaign. MSU passed an original $60 million goal last year and is near $70 million now. Half of the money from fundraising goes to supporting scholarship endowments. The Dean of Science, Engineering, and Technology said 1,400 students major in science, engineering, technology and mathematics subjects.

The Director of MSU's Center for Telecommunications System Management (TSM) said that programs of distinction such as TSM were created by the Postsecondary Education Improvement Act of 1997. Students in the TSM program blend business classes with engineering classes. Since 1999, TSM has had more than 300 undergraduates and more than 200 students who have received master's degrees.

Adult Education

Fifteen percent of working-age adults in Kentucky do not have a high school completion credential. This is a reduction from 30 percent in 2000. From 2005 to 2009, Kentucky led the nation in the increase in enrollment in adult education programs. Over the past decade, Kentucky produced 106,000 GED graduates.

Fifty-six percent of Kentucky jobs are projected to require some college training by 2020. Workers with a high school diploma or a GED are twice as likely to be unemployed as those with a bachelor's degree. Income for those with some college courses but no degree averages 15 percent higher in Kentucky than for those with a high school diploma or GED. By 2025, employers in the United States will need 23 million more degree holders than the nation's colleges and universities are projected to produce. By 2018, 54 percent of all jobs in Kentucky will require some level of postsecondary education.

Seventy-seven percent or 1.8 million members of the adult population in Kentucky do not have a bachelor's degree. Project Graduate helped 873 adult students complete bachelor's degrees in the past 4 years. Nearly 1.3 million need to re-enroll in postsecondary education in order to qualify for available jobs.

The Council on Postsecondary Education reported that two-thirds of the nation's college completion goal will be met by nontraditional students entering the postsecondary pipeline. The postsecondary education system is designed to meet the needs of traditional students between the ages of 18 and 24. The system needs to provide flexible scheduling and options for faster course completion.

Teacher Certification, Evaluation, and Professional Development

The acting director of the Education Professional Standards Board said EPSB is one of only 13 independent state professional standard boards across the nation. It was established as part of the 1990 Kentucky Education Reform Act and has 17 members. Fifteen of the members are appointed by the Governor and confirmed by the General Assembly.

The EPSB recently redesigned the master's degree and administrative preparation programs. All principal preparation programs are now post-master's degree programs. The curriculum requirements of the superintendent preparation programs are also being redesigned.

The EPSB is raising admission standards for initial teacher preparation programs. All new teacher candidates will be required to pass a rigorous skills test in math, reading, and writing prior to admission. A 2.75 GPA is required for admission, and candidates must demonstrate essential classroom skills including critical thinking, collaboration, creativity, and communication.

The EPSB is developing a quality preparation index for all of Kentucky's teacher preparation programs. The index includes a fair and reliable measure connecting to K-12 student performance. Kentucky will participate in the National Council of Accreditation for Teacher Education Alliance of states and embrace school-based clinical models for educator preparation.

EPSB, in collaboration with KDE and CPE, coordinated information and training sessions on revised content standards for faculty and staff in all teacher preparation programs. Teacher preparation programs sent the EPSB a current roster of adjunct, part-time, full-time, and term faculty, denoting attendance at information and/or training sessions in the use of Kentucky Core Academic Standards. One hundred percent have completed the training.

The EPSB is ensuring teacher preparation programs include the use of academic content standards in preservice programs and that all teacher interns have experience planning classroom instruction based on the revised standards. EPSB appointed a committee to ensure the alignment between the Kentucky Teacher Internship Program and 2009 SB 1.

The EPSB has created a work group to endorse an online teaching work group to allow certified classroom teachers to be prepared to develop and deliver online content and is creating a special education task force to examine preparation and certification of special education teachers.

KDE provided updates on the 2-year pilot of a teacher evaluation and effectiveness system in 54 districts. The system places emphasis on teacher observations. The department hopes to have peer observers that help provide more intensive, content-specific support to educators. KDE wants a system that is better aligned with what is happening in the classroom where students are learning based on teachers' professional growth plans. A student survey is proposed to collect information about students' views of educational experiences. The proposed system focuses on growth, reflection, and meaningful professional contributions.

Subcommittee Activity

Subcommittee on Elementary and Secondary Education

The subcommittee on Elementary and Secondary Education met four times during the interim to discuss issues, initiatives, and programs that impact student learning and student performance. Agenda items included the following topics.

Assistance to Schools

The Commissioner of Education explained the partnership between the department of education and Kentucky's educational cooperatives. All 174 school districts belong to at least one of eight regional co-ops. The individual needs of the teachers and administrators in each co-op's service area determine the types of support provided by co-op staff. The goal of all co-ops is to help educators help students become college and career ready. Co-op directors discussed the challenges of sustainable funding, organization, and geography.

The Commissioner explained that an Education Recovery Team has been assigned to 41 schools identified as persistently low achieving. The three-person team provides on-site, direct support to school staff with an emphasis on literacy and math.

The Educational Well-Being of Children in Foster Care

More than 6,900 children are in Kentucky's foster care system. A lack of foster placement resources near the school, school residency requirements, and transportation issues often require children to enroll in a school other than their home school. The Division of Protection and Permanency coordinates with local education agencies to measure and monitor how children and youth move between placements. A statewide plan is being developed to enhance education stability and other well-being outcomes for foster children.

Programs and initiatives are in place to support foster care children. The "Where the Heart Is" program prepares educators to better communicate with foster children; Kentucky statute allows a foster child adopted from the foster care system to receive a tuition waiver at any Kentucky postsecondary education institution; an education voucher program is available for foster children up to age 23 to continue their education at a postsecondary education institution or in a job training program; and a transition program assists those aging out of the foster care system.

School Lunch and Farm to School Programs

School districts that choose to take part in the federal school lunch program receive cash subsidies and foods from the US Department of Agriculture for each meal they serve. In return, they must serve lunches that meet federal requirements, and they must offer free or reduced-price lunches to eligible children. Recent changes to the program require children to be served a more nutritionally balanced lunch, with an increase in the amount of vegetables, fruits, and fat-free milk served and a reduction in the amount of meat served.

The Kentucky Department of Education (KDE) administers the Federal School Lunch program. KDE staff provides technical assistance, training, and reimbursement to sponsors that participate in various food service programs. More than $250 million per year in federal funding is distributed to these sponsors for reimbursement of the meals served. Fifty-two of Kentucky's 174 school districts are taking part in a federal program that provides free lunch to all students enrolled in specific schools in these districts.

The goal of Kentucky's Farm to School Program is to serve healthy meals in school cafeterias while supporting local and regional farmers. Many schools are growing their own gardens to contribute produce to the school's cafeterias, while teaching children the importance of farming in Kentucky.

Career Pathways and Career Readiness

A retired major who currently serves as a Jr. ROTC administrator explained the rigorous program his cadets complete as high school students. He expressed concern that students who complete the Jr. ROTC program are not identified as career ready. He recommended that the Kentucky Department of Education recognize the military as a career cluster, recognize Jr. ROTC as a career pathway, and recognize a Jr. ROTC Certificate of Training as an industrial certificate.

A high school principal explained the positive effects the Jr. ROTC program has on her students, school, and community. She is concerned that, because the program is not recognized as a "career-ready" program, enrollment may drop and the program may be discontinued in her school.

The Kentucky Department of Education will establish a work group in February to determine the curriculum or courses required for a military career to be included as a career pathway for the 2013-2014 school year. It was noted that the work group would not be able to finish its task in time for student schedules to be completed for the upcoming school year.

The subcommittee approved a recommendation to be sent to the Kentucky Board of Education to add military as a career pathway and to develop a waiver program for a student who obtains an industry certificate but does not complete the required three-course preparatory program.

Subcommittee on Postsecondary Education

The Subcommittee on Postsecondary Education met four times during the 2012 Interim.

Improving Student Success in Postsecondary Education

Representatives from the Council on Postsecondary Education provided an update on progress in improving student success in postsecondary education. Data shows the state is on target to meet goals in the number of associate degrees awarded and students transferring from the Kentucky Community and Technical College System (KCTCS) to 4-year institutions, while the state is not on track to meet the goals for bachelor's degrees awarded or 3- and 6-year graduation rates. They discussed the challenges to making progress in closing the graduation rate gap for students in gap target groups including low income, non-college ready, race, and ethnicity.

Information was provided on tuition costs and increases, the decrease in state budget support of higher education, and the net direct costs of tuition to students when taking grant and scholarship aid into account. State support for public universities and KCTCS decreased 40 percent per full-time equivalent student since fiscal year 1999, while degrees conferred increased by more than 137 percent.

There was discussion of efforts to help improve student success, such as appreciative advising, student/faculty interaction, use of technology, and supplemental instruction. The University of Louisville (UofL) Provost highlighted specific initiatives at the institution and shared statistics demonstrating their success. UofL has improved to seventh in the nation in improved graduation rates and in narrowing the gap between minority and nonminority graduation rates.

Improving College Readiness

The President of the Council on Postsecondary Education discussed efforts being made to improve college readiness of students as a result of 2009 Senate Bill 1 directives to reduce college remediation and increase college completion rates.

Partnerships among CPE, the Kentucky Department of Education, the Education Professional Standards Board, and others have formed to develop a unified strategy for college and career readiness that includes accelerated learning opportunities, secondary intervention programs, college and career readiness advising, and postsecondary persistence and degree completion.

New common core curriculum standards and assessment tests have been developed to target areas where students need additional assistance to be college ready. School districts that were early adopters of the new standards are seeing significant improvements in college readiness assessments.

The next focus areas for improving college readiness are educator preparation, professional development, and developmental education. Recent initiatives in educator preparation include a redesign of master's degree programs for teachers and principals and an increase in exam and grade point average standards. Developmental education is being redesigned, including incorporating an emporium model, which focuses on a student's specific area of need within a course instead of having the student repeat a full course. Other ways Kentucky is improving developmental education include providing learn-on-demand programs, offering supplemental coursework, and implementing bridge programming.

Low-Income and Minority Participation at Medical Schools

Representatives from the state's medical schools discussed their student demographics and efforts to recruit minority students.

The University of Louisville (UofL) provided information about the Office of Minority and Rural Affairs in the UofL School of Medicine. The school places a major emphasis on increasing the number of medical students from racial and ethnic groups designated as underrepresented in medicine and from counties designated as Health Professions Shortage Areas. UofL uses various entrance programs that create a pipeline of students into the medical school. Some of the programs that particularly support minorities include the Multicultural Association of Premedical Students, the Summer Medical and Dental Education Program, and the Summer Pre-Matriculation Program. Minority enrollments have remained stable with 8 out of 23 minority Kentucky applicants being accepted in 2012. UofL is losing minority students because of a lack of scholarship money.

The University of Kentucky (UK) said 43 percent of the medical students entering in 2012 are from Appalachia and rural areas. Five percent are black, including citizens of other countries. A problem with recruiting outstanding minority Kentucky students is significant competition from out-of-state schools. UK expressed concern about the physician shortage in Kentucky. Kentucky needs an additional 2,200 physicians by 2025, and the rising cost of tuition continues to discourage minorities and rural students from applying to medical school.

The Kentucky College of Osteopathic Medicine at the University of Pikeville (UP) said 7 percent of medical students are minorities. Sixty-two percent of UP graduates practice in Appalachia, 32 percent practice in Kentucky, 44 percent practice in underserved areas, and 38 percent practice in rural areas. Rising student debt is a concern, as is the differential pay between primary care and subspecialties, which creates a powerful disincentive to enter into primary care residency programs. UP awards approximately $1 million in coal-severance funded osteopathic scholarships annually, and recipients must provide 1 year of service in Kentucky for each year the scholarship is awarded.

The Role of Student Affairs Administrators on Campus

Representatives of universities and the community college system discussed the role student affairs offices play in integrating student life and learning. Each school echoed the theme "an engaged student is a retained student."

The Dean of Students at Bellarmine University highlighted some of the unique issues facing students on campuses today, including mental health issues and lack of coping and social skills. Technology is also a huge influence on today's student. For example, students will write 500 pages of emails in a year compared to only 42 pages for class assignments.

Student Affairs personnel at Kentucky State University discussed the school's efforts to provide holistic development and programming for its students. Students' needs can be classified as mental, emotional, academic, time-related, and financial, including health insurance costs, limited financial aid, and student loan issues.

The University of Kentucky Vice President of Student Affairs discussed the activities and services Student Affairs provides, ranging from the counseling center to dining services. UK 101, an academic orientation course, is taught inside the residence halls as one example of integrating student life and learning. Also, UK is working to increase student housing because students who live on campus have higher retention rates.

The Vice Chancellor of the Kentucky Community and Technical College System provided an overview of student affairs from the commuter campus perspective. Nontraditional students face challenges in balancing family, school, and work life, and Student Affairs works to complement academics and help students overcome daily barriers. In July 2012, KCTCS launched a 24-hour-per-day, year-round student services call center, and more than 23,000 calls had been received.

Senate Bill 1 Partnerships between P-12 and Postsecondary

The Council on Postsecondary Education presented information on the consequences of students not being college and career ready, such as unemployment and incarceration rates. For example, students with less than a high school diploma are 10 times more likely to be on Medicaid, and there are more Kentuckians on Medicaid than there are students enrolled in K-12 schools.

Since the passage of Senate Bill 1, Kentucky has seen significant progress in increasing college and career readiness. The percentage of graduates who were college or career ready in 2011-2012 was 47.2 percent compared to 38 percent in 2010-2011.

After passage of Senate Bill 1, the General Assembly appropriated $6 million plus $1.5 million in recurring funds to help meet the bill's goals, including institutional grants, assessment and placement grants, professional development, and Kentucky Partnership Academies. CPE attributed the use of these dollars as a direct contributor to the 10 percent increase in the number of students who graduated college and career ready.

The committee heard from partnerships that were made possible by the funding and the resulting work that is happening between colleges and secondary education. Northern Kentucky University, Morehead State University, and Western Kentucky University presented information about the partnership academies at their institutions and how they are helping improve college and career readiness. Representatives from Washington County Schools and St. Catharine College discussed their partnership, which provides an early college dual credit program and professional development on the new common core standards. A representative of the University of Louisville and JB Atkinson

Academy partnership talked about a program to eliminate summer reading loss of low-income students. Low-income students tend to lose on average 2 1/2 months of reading level in the summer, which decreases college readiness. The partnership program resulted in those students losing less than 1 month of reading level during the summer.

Report of the 2012
Special Subcommittee on Energy

Sen. Brandon Smith, Co-Chair
Rep. Keith Hall, Co-Chair

Sen. Joe Bowen
Sen. Ernie Harris
Sen. Tom Jensen
Sen. Ray Jones
Sen. Bob Leeper
Sen. Dorsey Ridley
Sen. Katie Kratz Stine
Sen. Robert Stivers
Sen. Johnny Ray Turner
Sen. Robin Webb
Rep. Royce W Adams
Rep. Rocky Adkins
Rep. Dwight D. Butler
Rep. Leslie Combs
Rep. Tim Couch
Rep. Will Coursey
Rep. Jim Gooch
Rep. Wade Hurt
Rep. Thomas Kerr
Rep. Martha Jane King
Rep. Lonnie Napier
Rep. Fred Nesler
Rep. Sannie Overly
Rep. Tanya Pullin
Rep. Tom Riner
Rep. Kevin Sinnette
Rep. John Will Stacy
Rep. Fitz Steele
Rep. Brent Yonts

LRC Staff: D. Todd Littlefield, Janine Coy-Geeslin, and Susan Spoonamore

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Special Subcommittee on Energy

Jurisdiction: Matters pertaining to investor-owned public utilities, rates, permits, certificates of convenience and necessity; water district rates; public utility cooperatives; electric, oil, and gas transmission companies; telephone companies and cooperatives; Internet access; municipal utilities and water works; energy and fuel development, including alternative fuels and renewable energy; energy waste disposal; the Public Service Commission; and hydroelectric and nuclear energy.

Committee Activity

During the 2012 Interim, the Special Subcommittee on Energy held five meetings. The committee received testimony regarding a wide range of topics.

Block Grant Application and Prefiled Bills

A representative from the Cabinet for Health and Family Services, Department of Community Based Services, Division of Family Support, explained the requirements and components of the Low Income Home Energy Assistance Program block grant application for FY 2013. The block grant application findings of fact were adopted by voice vote.

The committee did not consider any prefiled bills.

Kentucky's Energy Landscape

The Secretary of the Energy and Environment Cabinet discussed energy issues, testifying that the drop in natural gas prices is good for consumers but not for producers. Owners of Kentucky gas are finding it difficult to operate profitably while competing with shale gas from New York, West Virginia, and Pennsylvania. Kentucky provides about 1 percent of domestic US production.

Low prices for natural gas are also cutting into the market share that coal has enjoyed in the electric generation sector. Although 50 percent of electric generation was fueled by coal in 2010, that number fell to 34 percent in 2012. Coal will continue to have a place in that market but it is likely to be further reduced in the future. Adding to the difficulties experienced by eastern Kentucky coal miners, the widespread installation of flue gas desulfurization units means that more users no longer need low-sulfur coal.

Transportation Fuels

The Director of the Kentucky Clean Fuels Coalition testified that Kentucky has the largest fleet of hybrid electric school buses in the nation. Improved air quality at school loading and unloading areas is a benefit. Although the buses produce a 34 percent fuel saving over straight diesel buses, their purchase price is significantly higher.

Mammoth Cave is the first national park to use alternative fuels for all vehicles and equipment. The park runs four propane buses, two pickup trucks, three electric vehicles, and the Green River ferry, which burns biodiesel.

Interest is increasing in fueling vehicles using natural gas. Companies that have a fleet which refuels in a common location, such as Waste Management in Louisville, are converting vehicles to burn natural gas and investing in refueling facilities for natural gas.

Representatives of the University of Kentucky Department of Biosystems and Agricultural Engineering testified about processing biomass in on-farm facilities. UK received a significant federal grant to pursue this topic and secured additional private funds. Researchers are investigating whether two energy crops, miscanthus and switchgrass, can be economically raised, baled, and stored prior to use as feedstock in a process yielding cellulosic butanol. The cellulosic process also could be used on waste products such as corn stover and wheat straw. Butanol is less corrosive and has a higher energy density than ethanol. Like ethanol, the butanol would be mixed with gasoline. Results appear promising.

A sorghum farmer testified about the use of sorghum as a feedstock for conversion to ethanol. The high sugar content of sorghum makes it an attractive choice for ethanol production. While use of sorghum instead of corn avoids the controversy of using food crops for fuel, the high sugar content of the juice makes it very difficult to store for extended periods. Further research is needed to overcome this problem.

Carbon Capture Update

In 2011, the General Assembly directed the Energy and Environment Cabinet to pursue pilot projects capturing carbon dioxide (CO_2) and storing it underground either permanently or for later reuse. The Secretary of the Energy and Environment cabinet reported to the committee on progress. The discovery of large, recoverable quantities of shale gas has caused large coal users to look to cleaner natural gas to meet their emission requirements, at least in the short term. This has blunted some of the effort previously being directed at carbon capture and storage. Preliminary work with LG&E and KU has identified the E.W. Brown power plant in Mercer County as a good location to try capturing and storing CO_2 underground. The project is awaiting additional funding.

The Secretary also advised the committee that using CO_2 as a feedstock for raising algae continues to receive considerable scientific and business attention. A project by Alltech in Winchester as well as one by the Center for Applied Energy Research is under way. It is hoped that biofuels and other products can be produced using algae.

Ethane Cracking

A representative of the Kentucky Geological Survey testified about the suitability of Kentucky as a location for an ethane cracking facility. Because Kentucky's natural gas supplies tend to be relatively "dry" (containing only small amounts of natural gas liquids such as ethane, propane, butane, and pentane) and because shipping wetter natural gas from nearby states to a Kentucky facility would be expensive, Kentucky is not likely to be competitive in attracting such a facility.

Encouraging Energy Efficiency

A series of meetings involving utilities, industry, government, academia, social welfare organizations, and others has been held with the goal of increasing the efficient use of energy resources in the residential, commercial, and industrial sectors. Representatives of the Department for Energy Development and Independence said that a final report is still being written. Ideas that may appear in the report include incentives for landlords to weatherize rental property and requirements for Federal Emergency Management Agency funding recipients to meet higher energy efficiency standards when rebuilding.

Contaminated Site in Jenkins

The Mayor of Jenkins and the Director of the Division of Waste Management testified about a site that may have been contaminated by mining, electrical, and automotive wastes. Because of the proximity of Elkhorn Creek, there is concern about contaminating tributaries of the Big Sandy River and municipal water sources. They hope for further testing and better communication with the landowner.

Nuclear Power

The Vice President for Nuclear Operations Support at the Tennessee Valley Authority testified about the role of nuclear power in a balanced energy portfolio. A balance of energy sources is the way to buffer trouble caused by disruptions in any one fuel market. Nuclear energy is reliable, clean, safe, and cost efficient. He discussed unresolved issues with the long-term disposal of high-level nuclear waste and concerns following the earthquake, tsunami, and subsequent nuclear disaster in Japan.

Center for Applied Energy Research

A meeting was held at the laboratory recently opened at the Center for Applied Energy Research (CAER). The lab houses state-of-the-art facilities to further CAER's work in developing clean uses for Kentucky's coal and other natural resources. CAER has projects in biofuels, carbon materials, environmental coal technologies, batteries, fuel cells, and solar panels.

Report of the 2012
Interim Joint Committee on Health and Welfare

Sen. Julie Denton, Co-Chair
Rep. Tom Burch, Co-Chair

Sen. Joe Bowen
Sen. Tom Buford
Sen. Perry Clark
Sen. David Givens
Sen. Denise Harper Angel
Sen. Alice Forgy Kerr
Sen. Dennis Parrett
Sen. Joey Pendleton
Sen. Katie Kratz Stine
Sen. Jack Westwood
Rep. Julie Adams
Rep. John Arnold
Rep. Bob DeWeese
Rep. Kelly Flood
Rep. Jim Glenn
Rep. Brent Housman
Rep. Joni Jenkins
Rep. Mary Lou Marzian
Rep. Tim Moore
Rep. Darryl Owens
Rep. Ruth Ann Palumbo
Rep. Ben Waide
Rep. David Watkins
Rep. Susan Westrom
Rep. Addia Wuchner

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

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

Families and Children Subcommittee

Sen. Katie Kratz Stine, Co-Chair
Rep. Tom Burch, Co-Chair

Sen. Tom Buford
Sen. Perry B. Clark
Sen. David Givens
Sen. Alice Forgy Kerr
Sen. Joey Pendleton
Rep. Julie Raque Adams
Rep. John A. Arnold, Jr.
Rep. Kelly Flood
Rep. Jim Glenn
Rep. Brent Housman
Rep. Joni L. Jenkins

LRC Staff: Ben Payne and Cindy Smith

Interim Joint Committee on Health and Welfare

Jurisdiction: Matters pertaining to human development, health, and welfare; delivery of health services; support of dependents; public assistance; child welfare; adoptions; children's homes; disabled persons; family welfare; aid to the blind; commitment and care of children; mental health; substance abuse; health, medical, and dental scholarships; local health units and officers; vital statistics; communicable diseases; hospitals, clinics, and long-term care facilities; health professions; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; nurses; pharmacists; embalmers and funeral directors; psychologists; optometrists; ophthalmic dispensers; physical therapists; senior citizens; eliminating age discrimination; non-public sector retirement; problems of aging; violent acts against the elderly.

Committee Activity

The Interim Joint Committee on Health and Welfare met six times during the 2012 Interim.

Children's Issues

Pulse Oximetry Screening for Newborns. Pulse oximetry is a simple, non-invasive test that detects coronary heart disease by measuring the percentage oxygen saturation of hemoglobin in the blood by using a clip on a toe or finger of a newborn. The benefits of pulse oximetry are that it is a simple test that reduces costs, reduces disability, saves lives, and avoids tragic trauma to families.

A representative from the Cabinet for Health and Family Services reported that the cabinet is in the process of requiring all hospitals to perform pulse oximetry screening of all newborns.

Health Access Nurturing Development Services. The Health Access Nurturing Development Services (HANDS) program is a voluntary, intensive weekly home visitation for first-time parents regardless of income from prenatal to age 3. It is designed to improve both health and social outcomes. HANDS serves approximately 10,000 to 11,000 families annually in all 120 counties. Case workers conduct more than 700 home visitation services daily and more than 14,000 a month.

HANDS has received tobacco settlement funds to provide services since 2000. To maintain and develop the program, tobacco settlement funds will need to be replaced with a more sustainable funding source. Several federal grants from the Maternal, Infant, and Early Childhood Home Visiting Program have been received. Current state funding levels must be maintained for home visiting programs in order to continue receiving federal funds for HANDS.

Child Fatality Review Panel. The policy adviser to the Secretary, Cabinet for Health and Family Services, reported on Executive Order 2012-585, creating the Child

Fatality and Near Fatality External Review Panel. The panel is to review records related to child fatalities and near fatalities due to abuse or neglect. The panel will recommend improvements to the cabinet, the Department for Community Based Services, and any other private or public agency that can assist in increasing safety for children.

The Executive Director of Kentucky Youth Advocates made three recommendations regarding legislation that may be proposed for the panel: include a medical professional; create a reliable data system; and ensure the independence of the panel. The review panel should be independent of the cabinet and the Governor's office and should be in a constitutional office. Board members cannot represent groups whose financial reliability comes from the cabinet. Powers and protocols of the panel need to be included in the legislation. A decision should be made about what and how data is released in order to have transparency, and whether the panel has subpoena power. Legislation should be enacted in 2013 for the panel to continue its work.

A representative from Prevent Child Abuse Kentucky testified on the importance of the panel's work and the need for legislation.

Disability Issues

The committee met at Kaleidoscope, Inc., a younger adult day care and health center in Louisville. The President of Kaleidoscope discussed the importance of therapy for persons with developmental disabilities and of receiving adequate and appropriate supplies for personal care.

IMPACT Plus. Testimony indicated that Medicaid-eligible children are being denied IMPACT Plus services and that service providers are being forced to turn clients away. A request was made to permit IMPACT Plus providers to provide services outside the IMPACT Plus program to any Medicaid-eligible child and to provide services longer than the 6-month limit. The limits severely restrict outpatient behavioral health options for children and families. This change could increase access to the program and reduce costly stays in hospitals and residential placements.

The Deputy Commissioner for the Department for Behavioral Health, Developmental and Intellectual Disabilities stated that the intent of IMPACT Plus is to have a coordinated and intensive level of service, and not a routine level of service with a duration of 6 months unless there is prior approval for more intensive services. The goal is to transition to a lesser intensive level of care. Certificate of Need law should be considered before allowing providers to offer lower levels of care outside their expertise.

National Background Check Program. Testimony indicated that an adult abuse registry is needed to prevent the abuse of adults with disabilities. Individuals with developmental disabilities are 10 times more likely to be victims of sexual assault and 12 times more likely to be victims of robbery.

The Inspector General of the Cabinet for Health and Family Services reported on the receipt of a 3-year National Background Check Program grant from the Centers for Medicare and Medicaid Services in May 2011. The grant will fund the implementation of the program for the first 2 years. Kentucky Applicant Registry and Employment Screening (KARES) is a pre-employment screening mechanism that will prevent individuals from hiding criminal or abusive actions when seeking employment in long-term care facilities. State law currently requires applicants for employment in long-term care facilities to submit to a check of the nurse aide abuse registry and a name-based, state-only criminal records check. There is no requirement for additional or ongoing checks during the individual's employment that might reveal subsequent convictions. Through KARES, applicants will submit to a check of all available abuse registries and fingerprint-supported state and FBI criminal background checks. Legislation is needed to require appropriate care-giving entities to use the background check program.

Health Care Issues

The committee met at the Sullivan University College of Pharmacy in Louisville. The College of Pharmacy had 11 graduates with residencies in 2011, and 13 graduates have residencies in 2012. The graduates practice in communities at pharmacy chains, independent pharmacies, hospitals, long-term care settings, nuclear fields, and residency training programs.

Kentucky Health Benefit Exchange. The Executive Director of the Office of the Kentucky Health Benefit Exchange, Cabinet for Health and Family Services, reported on the establishment of the Health Benefit Exchange on July 17, 2012, by Executive Order 2012-587. The federal Patient Protection and Affordable Care Act of 2010 requires states to either establish a state health care exchange or allow the federal government to operate an exchange for the state by 2014. The exchange will be a venue where individuals will be able to purchase health insurance coverage. The law establishes criteria, including essential health benefits that must be offered through the health plans.

The Exchange Advisory Board appointed by the Governor had 11 members with relevant experience in health benefits administration, health care finance, health plan purchasing, health care delivery system administration, public health, or health policy issues related to the small group and individual markets and the uninsured. Executive Order 2012-783 expanded membership of the board to 19 members to better represent community stakeholders.

The exchange is 100 percent federally funded through 2014 but must be self-sustaining by 2015. A $67 million federal grant has been received, and the office will apply for another grant from the federal government for system costs. A sustainability plan must be developed for how the exchange will be financed after 2014 and must be sent to the US Department for Health and Human Services. The plan will include the financing of the continued operations through user fees and other types of assessments and not through general dollar funds. Kentucky Access, Kentucky's high-risk pool, will be phased out after 2015. Emergency administrative regulations that define the requirements of qualified health plans will be filed.

The Executive Director also reported on issues related to the exchange tax credits for small employers; premium assistance for individuals with incomes between 133 percent and 400 percent of the federal poverty level; the ability of consumers to compare plans; multistate plans; Consumer Oriented and Operated Plans (co-ops) developed by qualified nonprofit health insurers; qualified health plans; and penalties for large employers that do not offer health insurance to employees.

Medicaid Managed Care. The Secretary of the Cabinet for Health and Family Services reported on the progress of Medicaid Managed Care. The planning began in March 2011, the request for proposals (RFP) was released on April 7, 2011, and all bids were due on May 25, 2011. Three-year contracts with three Medicaid Managed Care Organizations (MCOs) were finalized by the Finance Cabinet in the first week of July 2011, and multiple letters to members and assignment to MCOs were completed by mid-October. Final approval from the Centers for Medicare and Medicaid Services came on October 28, 2011, and startup occurred on November 1, 2011. The secretary stated that as of June 2012, the cabinet was on target with the $1 billion savings projected by the Governor by saving nearly $190 million in the first 6 months.

The assignment of approximately 550,000 Medicaid-eligible individuals to CoventryCares, Kentucky Spirit, or Wellcare was based on providing continuity of care, recognizing children’s and disabled members’ needs, keeping families together with one MCO, preventing MCOs from having too many or too few members, and achieving the lowest price to the state. During open enrollment, recipients will receive information that includes a comparison of plans. After choosing an MCO, a recipient can change to another MCO with cause as outlined in federal regulations. CoventryCares started with 212,000 members and now has 230,000 members; Wellcare started with 121,000 members and now has 150,000 members; and Kentucky Spirit started with 219,000 and now has 137,000 members. When a recipient changes to a different MCO, the money follows the recipient. Each MCO decided whether co-pays from $1 to $3 would be required for recipients.

While the contracts with the MCOs are not renegotiated, risk adjustments are made to contract amounts based on changes in the amount of care needed by the individuals enrolled with each MCO. The MCOs contract with provider networks and can renegotiate contracts.

The President and CEO of CoventryCares of Kentucky reported on some of the challenges it experienced during the implementation phase. The use of services has been much higher than indicated by the information provided by the cabinet. In the first 5 months, the prescription drug cost was 41 percent higher than what the original data book stated, and behavioral health costs were 66 percent higher. CoventryCares has not collected co-pays because its system was not equipped to charge co-pays initially. CoventryCares has not been adequately compensated for the higher-risk individuals it has served compared to Wellcare and Kentucky Spirit. As a result of these factors, CoventryCares lost $50 million in the first quarter of 2012. He also addressed coverage of mandatory services and contract problems with health care providers.

The Secretary for the Cabinet for Health and Family Services reported on Kentucky Spirit's intention to terminate its contract as of July 5, 2013. The cabinet had daily conversations with Kentucky Spirit over the past several weeks about its MCO contract. Kentucky Spirit experienced more losses than it had estimated. The cabinet will take the necessary steps to ensure that Medicaid participants covered by Kentucky Spirit will be transitioned into CoventryCares and Wellcare.

The MCO contracts will end in June 2014, and there is no plan to rebid Kentucky Spirit's contract to another entity. The MCO contracts have four 1-year extensions, but the cabinet has the option to rebid the entire state in 2014.

Kentucky Spirit is in breach of contract by leaving the state 1 year early, and the cabinet will pursue damages for any expenses and money incurred because of the departure. These costs are outlined in the MCO contract as legitimate costs that the cabinet would pursue.

The committee heard a report on a 3-year evaluation of the Medicaid managed care implementation that was funded by the Foundation for a Health Kentucky and conducted by a team with members from the Urban Institute, the University of Kentucky, and Georgia State University. The team members have expertise in Medicaid and managed care, knowledge of Kentucky's Medicaid program, and experience with Kentucky-specific data. The evaluation relies on a combination of quantitative and qualitative research methods and aims to provide insights about both the start-up phase and long-term operation.

The Urban Institute will provide the Foundation for a Healthy Kentucky with a progress report every 6 months on the qualitative and quantitative information. Baseline data on health care use and outcomes will be provided in the next report, which will show changes over time as managed care has been implemented within the Medicaid system. The information will come from the Medicaid claims encounter data from the cabinet and hospital discharge abstracts.

The committee heard testimony on the implementation of Medicaid MCO contracts in Region 3 awarded in October 2012 and effective January 1, 2013, to Humana, CoventryCares, Wellcare, and Passport. The RFPs for Region 3 were due July 2012. The Deputy Secretary for the Cabinet for Health and Family Services stated that assignment of Medicaid clients to a MCO was based on the same algorithm used throughout the state. The federal government said that competition was needed; therefore, Passport could not be expanded throughout the state or granted exclusive license in Region 3. Passport has more experience with managed care. The letter sent to recipients stated that anyone would be allowed to change MCOs for any reason.

The committee heard testimony on provider and patient difficulties with the MCOs including issues with payments, procedures, and covered services.

Prescription Pain Management. The committee heard testimony from physicians on issues related to the implementation of HB 1 passed during the 2012 Special Session of the General Assembly to control pain clinics and the prescription of controlled substances. The Cabinet for Health and Family Services implemented the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system. E-mails were sent to 15,000 providers who could register online to use the KASPER system as required under the law before prescribing any controlled substance.

Unintended consequences of the law may include concerns regarding patient safety, access to care, and barriers to safe and appropriate pain management. Concerns include increased emergency room visits, hospital admissions, and nursing home admissions due to inadequate pain control and adverse effect of alternative medications. The following recommendations were made:

- Repeal KRS 218A.205 mandating to the licensing boards to create prescribing standards for physicians;
- Amend KRS 218A.205 mandating that licensing boards issue prescribing standards for controlled substance used to treat long-term pain, rather than all controlled substances; and
- Eliminate the hospital reporting requirement in KRS 218A.202.

Other issues raised with the law concerned the types of drugs restricted, such as Ambien and testosterone; the payment source for required drug tests of patients; confidentiality of patient records; and the need for repeated physician visits for ongoing medications.

A representative from the Kentucky Board of Medical Licensure (KBML) indicated that the emergency regulations will be revised in November 2012 to correct many of the problems. Problems that doctors are having are due to misinterpretation either of the statute or of the administrative regulations. KBML is posting clarifications on its website. KBML wants to change the regulations to be more specialty-specific. What cannot be changed in the emergency regulations might be changed in the statute.

Outpatient Surgery. The committee heard testimony on Surgery on Sunday (SOS), which provides free surgery for uninsured, low-income patients in Lexington. SOS refers patients to free and reduced-price clinics across the state and requires that they obtain a clinic as their primary care home before becoming SOS patients. Clients receive a preoperative surgical visit, surgery, and postoperative surgical visit at no cost to the patient. They are provided any required preoperative imaging through the generosity of a community partner and are then referred for postoperative pharmacy needs. SOS is the first program of its kind and could be implemented statewide and nationally. Louisville is in the process of starting an SOS. The volunteer staff comes from hospitals all over the state. Approximately 900 people are on the SOS waiting list.

Public Health Issues

The Director of the Louisville Metro Department of Public Health and Wellness spoke to the committee about the future of public health. She stated that public health is about public and private partnerships. Only 20 percent of the population's health outcomes are related to quality and access of care. The other 80 percent is related to health behaviors, socioeconomic factors, and the physical environment. Factors that affect health include counseling and education, clinical interventions, long-lasting protective interventions, changing the context to make individuals default to healthy decisions, and socioeconomic factors. The largest impact on public health would be achieved by addressing socioeconomic factors like education, poverty, stable housing, and other sources of social inequality.

Mental Health Issues

Military Suicide Bereavement. The committee heard testimony on a study investigating how individuals are affected by the suicide death of active duty service members; the study is being conducted in the College of Social Work, University of Kentucky. More troops have died by suicide than in combat since the beginning of the Afghanistan war 10 years ago. Suicide is now the leading cause of death among service members. From 2005 to 2011, 51 soldiers at Fort Campbell died by suicide.

The Military Suicide Bereavement Study will examine bereavement experiences and needs of military family members, of veterans, and of community members who have lost loved ones to suicide. Results from this study will help answer what percentage of veterans and community members are exposed to suicide and how suicide affected their lives.

Assisted Outpatient Treatment for Mental Health. The committee heard testimony on the need for more court-ordered treatment for severely mentally ill individuals who often end up in jail because they are not receiving appropriate treatment. The Community Based Outpatient Agreed Order under KRS 202A.081 could be extended for longer than 60 days and used more often for the severely mentally ill with a history of hospitalization and arrest. Other recommendations include adopting national policies such as assertive community treatment, assisted outpatient treatment (AOT), jail diversion programs, and mental health courts and re-entry services. States that use AOT show that incarceration rates are reduced by 87 percent; arrest rates by 83 percent; homelessness rates by 74 percent; and dangers to self and suicide rates by 55 percent.

Referred Block Grant Applications

No block grant applications were referred to the committee.

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee reviewed 27 administrative regulations upon referral from the Administrative Regulations Review subcommittee under the review process established in KRS Chapter 13A.

Referred Executive Orders

Pursuant to KRS 12.028, the committee held legislative hearings on three executive orders upon referral from the Legislative Research Commission: Legislative Review of the Executive Order 2012-585 relating to the Establishment of the Child Fatality and Near Fatality External Review Panel; Executive Order 2012-587 relating to the establishment of the Kentucky Health Benefit Exchange; and Executive Order 2012-783, an Amended Order Relating to the Establishment of the Kentucky Health Benefit Exchange.

Subcommittee Activity

Subcommittee on Families and Children

The Subcommittee on Families and Children met one time during the 2012 Interim.

Child Welfare

The subcommittee heard presentations during the interim about the foster care system and the Strategic Planning Committee for Children in Placement. The Commissioner for the Department for Community Based Services, Cabinet for Health and Family Services, presented data to the subcommittee concerning child protective services in 2012 and specific trend reports for out-of-home care over the previous 7 months. The presentation also covered the costs to the state to provide foster care, long-term goals for children in foster care, and types of placements. The President of the Kentucky Children's Alliance made a presentation on foster care from the perspective of private child caring agencies and talked about the revival and future direction of the Statewide Strategic Planning Committee for Children in Placement.

The subcommittee heard a presentation concerning the Child Fatality and Near Fatality External Review Panel that was established by a 2012 Governor's Executive Order. Representatives of the Justice and Public Safety Cabinet focused on a status update on timelines and possible topics to be discussed by the Child Fatality and Near Fatality External Review Panel.

Child Health

The State Epidemiologist and the Director of the Division of District Support, Department of Education, testified about school-required immunizations for children.

The presentation detailed the current coverage requirements for children entering kindergarten and children entering the sixth grade; vaccine coverage rates for children in kindergarten and the sixth grade; and methods of securing an exemption to vaccination requirements.

The subcommittee also heard a presentation on compulsory school attendance and vaccination requirements.

Report of the 2012 Interim Joint Committee on Judiciary

Sen. Tom Jensen, Co-Chair
Rep. John Tilley, Co-Chair

Sen. Perry B. Clark
Sen. Carroll Gibson
Sen. Ray S. Jones
Sen. Jerry P. Rhoads
Sen. John Schickel
Sen. Dan "Malano" Seum
Sen. Brandon Smith
Sen. Katie Stine
Sen. Robert Stivers
Sen. Robin L. Webb
Rep. Johnny Bell
Rep. Jesse Crenshaw
Rep. Joseph M. Fischer
Rep. Kelly Flood
Rep. Sara Beth Gregory
Rep. Jeff Hoover
Rep. Joni L. Jenkins
Rep. Thomas Kerr
Rep. Stan Lee
Rep. Mary Lou Marzian
Rep. Michael J. Nemes
Rep. Darryl T. Owens
Rep. Tom Riner
Rep. Steven Rudy
Rep. Brent Yonts

LRC Staff: Jonathan Grate, Raymond DeBolt, Joanna Decker, Matthew Trebelhorn, and Rebecca Crawley

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Judiciary

Jurisdiction: Matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills, and administration of decedents' estates; domestic relations; adoption; abortion; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, Circuit Courts, and District Courts; jurisdiction, rule, terms, judges, commissioners, selections, districts, qualifications, compensations, and retirement; clerk of court; juries; commissioners and receivers; court reporters; habeas corpus; crimes and punishments; controlled substances offenses; driving under the influence; criminal procedure; probation and parole; correctional penitentiaries and private prisons; civil rights; and juvenile matters.

Committee Activity

The Interim Joint Committee on Judiciary held six meetings.

Kentucky State Police Academy

The Kentucky State Police Commissioner outlined the history of State Police training facilities and described the 2011 closure of the Frankfort Career Development Center, a minimum-security prison in Frankfort, and its subsequent transfer to the State Police for a training academy. The Secretary of the Justice and Public Safety Cabinet said closing the prison saved the state more than $1 million. The new academy occupies 362 acres and has several buildings. The State Police plan to tear down the administration building, which is the oldest building and no longer meets building, electrical, and fire code requirements, and plan to replace it at an approximate cost of $4 million, although only $2 million is budgeted for the project. Other buildings are being renovated with updating of heating, air conditioning, and other improvements for use as classrooms, a weight training facility, and laundry. The former inmate dormitory is being renovated to include housing for male and female cadets and staff. Additional savings are being realized because grounds maintenance is done by state inmates housed at the Franklin County Jail, the weight room is being furnished by surplus equipment donated by the Cincinnati Bengals football team, and beds and furnishings for the dormitory have been obtained at no cost as surplus property from the base realignment at Fort Knox.

The State Crime Laboratory

The Manager of the Kentucky State Police (KSP) Central Forensic Laboratory gave an overview of the facility and the services it provides to law enforcement. There are six KSP laboratories with 131 employees, providing forensic services free of charge to 450 law enforcement agencies in the areas of controlled substances, toxicology, trace, firearms and toolmarks, DNA casework, and the DNA database. The laboratories are funded by KSP general funds and restricted accounts, DUI service fees, DNA court fees, and federal grants. They processed about 38,000 cases in 2011.

The Controlled Substances Section provides chemical analysis of evidence from suspected drug crimes and clandestine laboratory analysis, with an average case turnaround of approximately 25 days. The number of heroin cases has increased significantly in the last 3 years.

The Toxicology Section provides chemical analysis of blood and urine samples to detect the presence of alcohol and a variety of drugs. The section analyzes 15,000 cases annually, including DUI; drug-facilitated sexual assaults; accident investigations; and murder, assault, and drug offenses. The most commonly detected drugs include marijuana and other illegal drugs (mostly cocaine) and prescription drugs (mostly Xanax, Lortab, Oxycontin, and Suboxone). Many DUI cases also show evidence of marijuana in the bloodstream, with marijuana being almost as common as alcohol. The section has also seen a surge in the presence of Suboxone.

The Trace Section tests for gunshot residue, hairs, fibers, paint, lamp filaments and glass, arson, physical matches, and soil analysis. There is only one trace laboratory in the state, with six employees who are also trained as expert witnesses.

The Firearms and Toolmarks Section differs from other sections because its employees rely on their powers of observation, training, and experience. The section provides firearms and toolmark identification, serial number restoration, muzzle-to-garment distance observations, and shoe and tire print identification. After evidence is received, most cases can be completed in about a week, but evidence may be held up in other sections with their own backlog, which affects the turnaround time.

The DNA Casework Section provides serological analysis, bloodstain pattern analysis, DNA analysis, and entries to the Combined DNA Index System (CODIS) system. Most cases relate to murder and death investigations, sexual assault/sodomy, assault/kidnapping, robbery and arson. Violent crime analysis turnaround is about 6 to 9 months, and property crime analysis is about 9 to 12 months. The caseload is about 2,500 annually, a 32 percent increase in the past 5 years, mostly related to increased property crimes.

The DNA Database Section conducts DNA testing of convicted felons and registered sex offenders and enters their profiles into the CODIS system. CODIS has local, state, and national levels, and they search and report matches to unsolved cases. The section receives about 12,000 cases annually, and the backlog is about 6,000 cases. The proposed arrestee database, with an estimated 42,000 arrestees and offenders, will require additional personnel and equipment. The central laboratory manager said the system will need a sustainable funding source as grant funds continue to decrease. Privacy protections are set forth in state and federal statutes, and expungement processes are in place if the DNA sample does not match the crime.

E-Crimes

The US Department of Justice, Office of Juvenile Justice and Delinquency Prevention, established the Internet Crimes Against Children (ICAC) program in 1998. The State Police established a Computer Crime Unit in 1999 within the Intelligence Section, and the unit changed to the Electronic Crime Branch in 2002. One focus of the Internet Crimes Unit is sex offenders who prey on children and exchange and view child pornography on the Internet. The unit conducts forensic analysis of electronic evidence, public safety training relating to the Internet, and training and assisting of other law enforcement agencies in their fight against Internet crimes against children. The unit investigates other types of digital crimes, including theft of identity, terroristic threatening, cyber stalking, fraud, theft, unlawful computer access (hacking), drug distribution, forgery, and terrorism and subversion.

In 2011, the Kentucky ICAC Task Force investigated 699 documented complaints. Detectives use the Internet and the provisions of KRS 510.155 relating to the use of electronic systems to procure a minor for sex. The officers monitor the Internet to discover persons interested in "chat room" and similar discussions between minors and others, and if the discussion appears to be involved in seeking unlawful conduct (ranging from nude photos to soliciting actual sexual relations), the officer then seeks the Internet Protocol address of the perpetrator and poses as a child to communicate. The officer permits the potential offender to incriminate himself or herself and does not direct the conversation or solicit acts but responds to requests. The user may meet with the "minor," who is a detective, for the purpose of engaging in illegal activity, at which time the perpetrator is arrested.

The Attorney General has the power to issue administrative subpoenas for Internet records pursuant to KRS 500.120, but the State Police and other law enforcement agencies do not. The State Police General Counsel would like to see the statute amended to at least include the State Police. Other desired statutory changes include prohibiting a registered sex offender from photographing a child without the permission of the child's parent. Wisconsin has a statute prohibiting this conduct, but photographing a child, particularly in public such as at a beach or swimming pool, is legal in Kentucky. The State Police would like to extend asset forfeiture, including real property, to child molestation and pornography cases, and would like to clarify that images of child exploitation are contraband, must remain in law enforcement custody, and are not subject to discovery.

Drug Bills Update

The Director of the Appalachia High Intensity Drug Trafficking Area Program summarized controlled substances legislation passed by the 2012 General Assembly. House Bill 1, relating to prescription drugs, took effect on July 20, 2012. The bill includes requirements for ownership, staffing, and operation of pain management facilities; requires the Cabinet for Health and Family Services, Kentucky Board of

Medical Licensure, Kentucky Board of Nursing, and law enforcement to share complaint information; requires licensing boards to promulgate administrative regulations on mandatory prescribing and dispensing practices and to accept unsworn complaints and anonymous complaints with sufficient verification; requires physicians and practitioners to use the KASPER drug tracking program prior to prescribing controlled substances; permits medical office personnel and Commonwealth's and County Attorneys and their assistants to access KASPER; and requires the state to enter into agreements with other states for sharing of prescription information. Prescription drug overdoses are the leading cause of accidental death in Kentucky, causing twice as many deaths as motor vehicle accidents. Drugs most frequently involved in accidental overdoses include oxycodone, alprazolam (Xanax), hydrocodone, methadone, and oxymorphone.

Senate Bill 3 places limits on the purchase of the solid form of pseudoephedrine but does not limit the purchase of liquid or gel cap forms. Pseudoephedrine is a necessary ingredient for the illegal manufacture of methamphetamine. The bill prohibits the purchase of pseudoephedrine by persons convicted of methamphetamine-related offenses for 5 years, enhances the purchase tracking system, and requires annual reports to the Legislative Research Commission. Children, family members, law enforcement personnel, and the general public are at risk from toxic fumes and environmental hazards associated with manufacturing methamphetamine.

House Bill 481 criminalizes the manufacture, sale, and possession of synthetic cannabinoids, piperazines, and cathinones. Sometimes known as designer drugs, these products are created and marketed to circumvent existing drug laws and are frequently marketed to minors under names such as Mad Monkey and Scooby Snax. Synthetic cannabinoids are frequently known as synthetic marijuana, and synthetic cathinones are frequently known as bath salts or plant food products. Many deaths and psychotic episodes, such as a videotaped episode shown to the committee, have resulted from the use of bath salts. The new legislation prohibits classes of drugs, not specific drugs, because altering the molecular structure of the products allowed them to remain a legal product in Kentucky. Under House Bill 481, possession of a synthetic drug is a Class B misdemeanor with a 30-day sentence. Trafficking in a synthetic drug is a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses. If the synthetic drug is sold to a minor, it becomes a Class C felony for the first offense and a Class B felony for subsequent offenses. In addition, the law provides for fines equaling twice the amount of the gain for trafficking and seizure and forfeiture of property for trafficking.

Operation UNITE

The Whitley County Coroner explained that prescription drug abuse is the nation’s fastest growing drug problem. A 2009 national survey found that nearly one-third of people age 12 and over who used drugs began by using a prescription drug for non-medical reasons. The same survey found that more than 70 percent who used prescription pain relievers for non-medical reasons got them from friends or relatives, while only 5 percent got them from a drug dealer. An estimated 20 percent of people in the United States use prescription drugs for non-medical reasons, and abusing narcotic painkillers, stimulants, sedatives, and tranquilizers can lead to addiction.

In 2011, there were 51 drug deaths in Whitley County, and through June 25, 2012, there have been 23 deaths due to prescription drug overdoses. These deaths have been attributed to alprazolam (Xanax) (23 percent), oxycodone (13 percent), hydrocodone (9 percent), cannabinoids (9 percent), tramadol (4 percent), alcohol (4 percent), and cocaine (1 percent).

The President and CEO of Operation UNITE gave a history of the program, launched in April 2003 by US Rep. Harold “Hal” Rogers in response to the special report “Prescription for Pain” published by the Lexington Herald-Leader. The program serves 29 counties and includes undercover narcotics investigations, substance abuse treatment, and public education efforts. UNITE’s education program has 30 Community Coalitions in which 66,570 youths have participated, has 11,000 volunteers, and has provided drug-free workplace training to many businesses and industries. Prevention programs include prescription drug drop boxes, anti-drug rallies, youth leadership programs, and community outreach and education programs for children.

Jailers’ Concerns

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

Another concern relates to deputy jailers who transport prisoners from counties with closed jails (one-third of Kentucky counties do not have a jail) to counties with open jails. Deputy jailers are not sworn peace officers, and there is concern about whether they have authority to make arrests and be armed when transporting prisoners. Speaker Stumbo said he was not aware that deputy jailers are not sworn peace officers and that the General Assembly would need to study the fiscal impact of expanding this authority on the state budget and the retirement system. The Kentucky Jailers’ Association would like to see deputy jailers become sworn peace officers and is ready to provide any needed training and peace officer certification. It was noted that Representative Jenkins introduced legislation in 2012 to address this concern, but the bill did not pass.

Kentucky Department of Corrections Treatment and Reentry Programs

The Commissioner of the Department of Corrections and the Deputy Commissioner for Support Services, Department of Corrections (DOC), gave an overview of Kentucky’s reentry programs, designed to help offenders transition from prison back into the community. In April 2009, DOC established the Kentucky Alliance for Reentry program. The department has implemented the Level of Service/Case Management Inventory (LS/CMI) risk/needs assessment tool, mandated by 2011 House Bill 463, for all levels of inmates from the presentence investigation report, throughout incarceration, and for parole purposes. The LS/CMI assesses the offender's risk level and identifies needs such as attitude change, education, substance abuse treatment, and job and work skills.

Kentucky established the first 24/7 reentry hotline in the nation for released offenders. Each prison now has a reentry coordinator, and Jefferson County has reentry parole officers who supervise medium- and high-risk parolees for the first 6 months following release. The Governor's Reentry Task Force, established in April 2009, identified barriers to successful reentry, including limited housing, lack of affordable housing, employment challenges including education and training, and statutes and regulations that limit or prohibit employment of felons and other offenders. It found that Scared Straight, physical challenge, boot camps, and shaming programs did not work. Successful programs include those which focus on criminogenic needs, matching the offender to the program, cognitive behavioral modification, and positive reinforcement. In response to a comment from Senator Smith about the success of Outward Bound programs that challenge persons in outdoor settings, the Commissioner responded that some of those programs have high recidivism rates.

The Deputy Commissioner for Adult Institutions discussed programs for inmates prior to release that are based in cognitive therapy, address the criminogenic needs of the offender based on the LS/CMI assessment, are evidence based, and last 6 months. Examples include InsideOut Dads, Moral Recognition Therapy, Pathfinders, Substance Abuse Program, Sex Offender Treatment Program, and Thinking for a Change. He recommended that good time credit for treatment and completion of education programs, as mandated by 2011 House Bill 463, be expanded to department-approved 90-day programs.

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

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

The Director of the Division of Probation and Parole discussed two new programs mandated by 2011 House Bill 463 requiring mandatory reentry supervision for 6 months prior to release for specified offenders, and requiring post-incarceration supervision for maximum or close-custody offenders. Since 2011, the division has added 73 probation and parole officers, 22 probation and parole investigators, 11 assistant supervisors, and 11 support staff. Seventy-five percent of those supervised are on probation, with the remainder from parole, pretrial diversion, mandatory reentry supervision, sex offender post incarceration supervision, and specified felon post-incarceration supervision.

Felony Reentry Programs: Corrisoft

A representative of Corrisoft, a corporation specializing in alternatives to incarceration programs, said the business began 6 years ago with a Clear My Record Program in several states. It has expanded to include high-tech employment, housing, education, substance abuse and mental health programs, and offender monitoring programs, with a special emphasis on programs for veterans. The programs are designed to break down silos of information so all parties who have information or services relating to an offender can communicate.

Potential 2013 Business-Related Legislation

The Secretary of State and an attorney from Stoll Keenon Ogden presented on business-related legislation. The Secretary of State's Office maintains records on 728,054 entities. Required business filings have increased and can now be submitted online. The Secretary of State thanked the General Assembly for the 2012 passage of HB 270 relating to streamlining the occupational license tax form, HB 341 relating to the statutory trust act, and HB 441 relating to the Uniform Limited Cooperative Association Act. Priorities for the 2013 Regular Session include updating the Kentucky Uniform Fraudulent Conveyance Act and revising the Model Nonprofit Corporation Act.

Defense Bar's Concerns

A representative of the Kentucky Association of Criminal Defense Lawyers (KACDL) said that the organization supports implementation of 2011 House Bill 463 but that several issues need further review, including inconsistent use of the pretrial release assessment by judges, denial of bail credits without specific justification, lack of a clear and convincing evidence standard for pretrial release, inconsistent application of deferred prosecution, presumptive probation, and graduated sanctions by the judicial community, and inconsistencies in issuing citation-only misdemeanors by some law enforcement agencies. KACDL's recommendations include reclassifying Kentucky's many misdemeanor offenses by adjusting penalties and converting some to fine-only offenses, reforming the persistent felony offender and violent offender laws, clarifying parole restrictions, converting to a determinate sentencing system, implementing the American Bar Association recommendations on the death penalty, restoring the Criminal Justice Council to the 1998 version, developing a significant system for felony expungement and restoration of civil rights, and rewriting the Kentucky penal code.

The Public Advocate, Department of Public Advocacy (DPA), made recommendations for improving the criminal justice system in Kentucky, including a presumptive parole for eligible low-risk offenders, expanding DPA's social worker program to assist courts in addressing the needs of offenders, creating a new classification for gross misdemeanors that would fall between felonies and misdemeanors, reclassifying minor offenses to violations or civil infractions, establishing a legal standard requiring clear and convincing evidence for pretrial release decisions, reforming the persistent felony offender and violent offender statutes to make sure the harshest punishments are used to protect public safety, amending the juvenile code to protect Kentucky's youthful offenders, expanding judicial discretion on expungement of convictions, expanding post-conviction DNA testing beyond capital cases, and implementing the American Bar Association Death Penalty Assessment Team recommendations.

Prosecutors' Concerns

The Warren County Commonwealth's Attorney said prosecutors are still assessing implementation of House Bill 463. He recommended creation of a new classification of felony offenses with 50 percent parole eligibility and elimination of credit for pretrial incarceration. He said it is probably time for Kentucky to consider switching from the current indeterminate sentencing program to a determinate sentencing program and abolishing the Parole Board. Virginia recently made this change, and it has been successful. He said it is very difficult to tell victims how long a person will serve under the current law, because of the many credits which can be applied to a sentence. Inmates are the only ones who can accurately determine their serve-out date; victims of crime consider that unfair. Pretrial risk assessments do not always consider the nature of the offense or victim impact when setting the conditions of bail or pretrial release.

The Laurel/Knox County Commonwealth's Attorney recommended that statutes relating to aggregate drug sales under House Bill 463 not be limited to repeat sales of the same drug. Drug dealers sell a variety of drugs, and law enforcement should be able to aggregate different types of drugs over 90 days. He said prosecutors are working on draft language for the change.

The Executive Director of Kentucky County Attorneys Association and the Jefferson County Attorney discussed the current statutes on misdemeanor expungement. The Jefferson County Attorney suggested clarifying the language on second and subsequent offenses and specifying which offenses should be allowed to defeat an expungement. He said his organization is working with the Kentucky State Police and others to develop a proposal to address this concern. He discussed the confidentiality of juvenile court proceedings. There may be a need to open certain types of juvenile court proceedings for felony public offense cases, but not misdemeanor public offenses. He said 39 states have open juvenile proceedings.

Law Enforcement Concerns

The Commissioner and General Counsel of Kentucky State Police suggested that the misdemeanor expungement process could be improved by implementing a certificate of eligibility process for submission to the court, vetted by KSP and the Administrative Office of the Courts (AOC), prior to granting an expungement so uniform standards would apply. The Commissioner said KSP processes approximately 12,000 records checks for expungement annually. Senator Webb said there needs to be an appeal process for applicants if a request for expungement is denied by KSP or AOC, so they have an opportunity to challenge incorrect information. Other KSP recommendations include clarifying circumstances for vacating judgments and expungement when new evidence exonerates the defendant, changing the laws on criminal background checks for appointees to boards and commissions to allow periodic checks following their initial appointment, and amending the driving under the influence statutes to specify that refusal to sign a hospital consent form for blood tests is the same as refusal to take the test with the same penalties. Another recommendation is requiring pawn shops to electronically report purchases to law enforcement and requiring them to maintain paper records of their transactions. The Commissioner said there is an excellent nationwide record management system called LEADSOnline, which helps law enforcement track, identify, and recover stolen property. The computer program is available to pawn shop owners free of charge.

Police Officers Bill of Rights

Representatives of Kentucky Fraternal Order of Police (FOP) discussed KRS 15.520, known as the Police Officer Bill of Rights. The statute sets forth procedures for handling complaints against police officers, requires 24-hour notice, and permits the presence of an attorney if requested by the officer. The FOP believes the statute applies to all complaints, whether generated by a citizen or a department. However, recent Court of Appeals decisions have ruled that the statute applies only to citizen complaints. Most complaints against police officers are departmentally generated, and the FOP disagrees with the court's decisions. Discretionary review has been granted by the Kentucky Supreme Court in one of the cases.

Representatives of the Kentucky League of Cities and the Kentucky Association of Counties said the right of government to control and discipline its employees is set forth in other statutes and should apply to police officers. They agreed to work with the FOP and other parties to reach an agreement for consideration by the 2013 Regular Session of the General Assembly.

The Resurgence of Heroin in Kentucky

The Covington Chief of Police discussed the increase in heroin problems. Coinciding with that is increased incidence of copper and metal theft, and prostitution directly tied to heroin addiction. House Bill 1 makes it much harder to get prescription drugs legally, and their street price is increasing. People are turning to heroin as a less expensive and more readily available alternative. While arresting and jailing heroin users is a necessary tool to protect the public, the users cannot overcome their addiction without successful treatment programs.

The Director of the Office of Drug Control Policy agreed that heroin use and addiction are increasing statewide. Eighty heroin overdose deaths have been reported through September 18, 2012. This is due to the low price of heroin, easy availability, and low perceived risk. Other effects of the increase in heroin use include budget impacts to the Department of Corrections as more inmates need treatment for heroin addiction, increased cases of hepatitis C and HIV from needle sharing, danger to law enforcement from needle sticks, and increased workers' compensation claims.

USA4 Military Families Program

The SE Region State Liaison, Office of the Deputy Assistant Secretary of Defense, gave an overview of the USA4 Military Families initiative. Issues include removing licensure impediments for separating service members to allow them to transition back into civilian jobs, encouraging states to allow military education and training as credit toward licensing requirements, encouraging states to allow academic credit for military education and training, working with state governments to align state child care rating systems with Department of Defense child care requirements to provide good child care options for military families, establishing veterans treatment courts to address veterans suffering from substance abuse and behavioral health problems, encouraging states to address predatory lending practices that target military service members and their families, and clarifying state statutes on disposition of human remains.

The areas most densely packed with payday lenders are near Fort Campbell and Fort Knox, the state's only two military bases. There are 18 payday lenders near Fort Campbell and 22 payday lenders near Fort Knox. Payday lenders target members of the military because soldiers receive a guaranteed check every 2 weeks, and if there is a problem, the base command can make sure the problem is resolved. Even though Kentucky has an interest rate cap of 17 percent, the legislature has authorized payday lenders to charge "fees" that equate to up to an interest rate of 459 percent.

Military Personnel, Veterans and the Kentucky Court of Justice

The Chief Justice of the Kentucky Supreme Court said the Kentucky Access to Justice Commission was created in 2010 to identify barriers to justice in Kentucky and make recommendations to ensure citizens can access the court system across the state. Justice Will T. Scott, a veteran, was named Chairman of the Veterans Subcommittee to make sure veterans have access to all the services authorized by Congress.

Jefferson County has the largest veteran population in Kentucky, and as the wars in Iraq and Afghanistan come to a close, the veteran population will continue to grow. Some will struggle with the transition to civilian life. The Administrative Office of the Courts is collaborating with several agencies to implement the Jefferson County Veterans

Treatment Court (VTC). Funded by a 3-year grant from the Veterans Justice Administration, the VTC will assist veterans entering the criminal justice system, offering comprehensive evidence-based services. Another component of the VTC is to collect data on veterans entering the Kentucky criminal justice system, whether they served in combat, and what they are charged with.

Kentucky has veterans driver's licenses. The uniform citation form, which is the entry point for the criminal justice system, has been changed to include veterans information. That allows the jails to know immediately if they have a veteran in custody. The Administrative Office of the Courts is redesigning its database to allow the county clerk to produce a list of all veterans in the court system, so veterans who are attorneys can provide pro bono legal services, and veterans advocates can assist them as they go through the justice system.

The presiding judge over Kentucky's first Veterans Treatment Court testified that returning service members face a number of problems including homelessness; unemployment; mental health problems such as post-traumatic stress disorder, traumatic brain injuries, depression, and suicide; and substance abuse. A 2000 Bureau of Justice report found that 81 percent of all veterans involved in the justice system had a substance abuse problem prior to incarceration. He said the services of the Veterans Treatment Court are also available to veterans living outside Jefferson County.

The manager of the Veterans Treatment Court pilot project said that judges across the state are committed to veterans treatment courts and that AOC must target areas with enough veterans to support a veterans docket for it to be successful. Changes to the AOC database to identify veterans in the court system will help develop new courts and train judges to operate them.

The Chairman said there is a great need for a veterans treatment court in Christian County, and a representative of AOC encouraged members to ask circuit judges to build support for establishing veterans treatment courts. The Chief Justice said Fort Campbell is unique because it straddles the Kentucky-Tennessee border. Montgomery County, Tennessee, has already established a veterans treatment court, which increases pressure to mirror that in Christian County.

Behavioral Health for Kentucky Veterans, Service Members and Their Families: The Way Ahead

The Director of the Kentucky Commission on Military Affairs discussed behavioral health services for veterans, service members, and their families. In August 2012, the Governor created the Kentucky Strategic Action Plan, with the goal of increasing access to appropriate and effective behavioral health services for service members, veterans, and their families, maximizing the quality of services and efficiently allocating resources, sustaining a stable and healthy environment, and collecting data to support decision making. The Veterans Crisis Line has been established to help service members access needed services for depression and suicide prevention, alcohol and substance abuse, and domestic abuse.

Report of the 2012
Interim Joint Committee on Labor and Industry

Sen. Alice Forgy Kerr, Co-Chair
Rep. Rick G. Nelson, Co-Chair

Sen. Jared Carpenter
Sen. Julian M. Carroll
Sen. Julie Denton
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Jerry P. Rhoads
Sen. Tim Shaughnessy
Sen. Kathy Stein
Sen. Katie Kratz Stine
Sen. Jack Westwood
Sen. Ken Winters
Rep. John A. Arnold
Rep. Regina Petrey Bunch
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Rep. Bill Farmer
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Rep. Charles Miller
Rep. Terry Mills
Rep. Mike Nemes
Rep. Tanya Pullin
Rep. Tom Riner
Rep. Jim Stewart
Rep. Brent Yonts

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

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Labor and Industry

Jurisdiction: matters pertaining to the workforce and workplace not specifically assigned to another committee; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeships; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

Committee Activity

The committee held five meetings during the 2012 Interim. The topics discussed included workers' compensation, unemployment insurance, the Ford Motor Plant, job market and skills gap for advanced manufacturing, Labor Cabinet employer training programs, and joint economic development efforts with Lexington and Louisville.

Worker's Compensation

The Commissioner of the Department of Workers' Claims updated committee members on two significant court cases decided by the Kentucky Supreme Court. The cases relate to the black lung provisions in Kentucky's workers' compensation law. The Supreme Court affirmed the Court of Appeals decision that the black lung provision violated the equal protection clause of the US Constitution because the disability determination process was different for black lung claims than for other work-related occupational pneumoconiosis claims. This decision does away with the consensus process that was enacted in 2002.

The Supreme Court noted that the clear and convincing standard applicable to coal workers' pneumoconiosis was a much higher standard than was applied to other occupational pneumoconiosis. The commissioner stated that the agency will probably require a full pulmonary examination in every black lung claim, because it is required in other occupational pneumoconiosis claims. Other issues remaining to be determined include what impact, if any, the court decision will have on the payment structure for black lung claims, which is different from the payment structure applicable to other occupational pneumoconiosis claims. Also questions have been raised about the impact of the decision on cases decided under the consensus process enacted in 2002. The Commissioner concluded that the agency has a plan to comply with the provisions specifically addressed by the Supreme Court decision.

The Commissioner for the Department of Insurance presented an overview of the National Council on Compensation Insurance and its annual 2012 Loss Cost Filing, which was approved by the department and became effective October 1. Medical claims continue to be a cost driver and represent 65 percent of workers' compensation claims. However, for the seventh year, loss costs have continued to decrease, resulting in a 42.2 percent decrease. In 2012, a decrease of 7.9 percent was reported for the 590 industrial classes used in Kentucky. These classes include manufacturing, office and clerical, contracting, and goods and services. For coal classes, underground mining costs decreased 8.9 percent and surface mining decreased 7.0 percent.

Unemployment Insurance Program

The Secretary of the Education and Workforce Development Cabinet provided information on the unemployment insurance program and trust fund. 2012 HB 495 authorized the cabinet to obtain financing to pay the interest on the advances (federal unemployment insurance loans) received under Title XII of the Social Security Act and to impose a surcharge on employers, beginning in 2014, to repay the financing.

The cabinet obtained financing from J.P. Morgan Chase. The cabinet borrowed $76 million at a fixed interest rate of 1.95 percent. The overall maturity date of the loan is September 1, 2018. The federal debt is anticipated to be reduced to $915 million at the end of 2012 and to $768 million by the end of 2013.

The Secretary testified that the number of claims for unemployment insurance has decreased by more than half over the past 2 years. By the end of the year, the total benefit payout is projected to be much less than anticipated. Kentucky will not need additional borrowing from the federal government during the remainder of this year, and contributions are expected to exceed the benefit payout for the year.

Ford Motor Plant

The assistant plant manager presented information on the recent transformation of the Louisville Assembly Plant (LAP), which occurred from December 2010 through July 2012 to begin the production of the 2013 Ford Escape. The transformation of LAP began in 2007 with legislative support and continued through 2011 with the initial demolition and reinstallation of the facility to more than 3 million square feet. Replacing hard tooling within the plant with new equipment allows for multiple projects at one location. LAP boasts best-in-class workforce training programs. The plant added a third shift in August, creating 1,200 jobs.

The general workforce populations at the Ford plant starts at $15.74 an hour. Engineers and technical positions make $34 per hour or start at $80,000 on salary. The assistant plant manager stated that it is crucial to prepare students in math and sciences for skilled and technical positions. LAP is seeking maintenance supervisors, automation engineers, electricians, and people who are able to pass the exams necessary to gain employment in technical positions.

Each vehicle produced at LAP uses 2,600 parts and represents over 500 suppliers, many of them local. In 2010 Ford spent $4 billion on parts in the state of Kentucky. The committee members toured the plant at the end of the presentation.

Job Market and Skills Gap

The Secretary of the Education and Workforce Development Cabinet and the Executive Director of the Kentucky Workforce Investment Boards presented information regarding the job market in Kentucky and the apparent skills gap that inhibits filling many high-skilled technical and manufacturing jobs.

A study completed in 2012 showed that in metropolitan areas, including Louisville, higher unemployment rates may occur when the jobs require more secondary education and training than the average adult in these areas has attained. The Secretary informed the committee of the Governor's Executive Order to reorganize the Department of Education aligning postsecondary and technical programs with the department-updated curriculum standards to prepare every student to be career-ready as well as college-ready.

The Kentucky Workforce Investment Board (KWIB) seeks to develop tools to promote accountability within communities and the workforce by strengthening the relationship with local business and industry. The growth of secondary technical education programs in Kentucky is crucial to employment in emerging manufacturing and technical sectors. However, there is an apparent gap in instruction of soft skills including practical and critical problem-solving skills in the workforce. KWIB assists in developing work-ready communities, where the entire community is committed to accountability in education and training results so that the workforce has all of the skills necessary to do the work required. The Executive Director stated that 10 communities have been certified by KWIB as Work Ready Communities, eight certifications are pending, and 30 communities have applied for certification in 2013.

Employer Education Programs

The Secretary of the Labor Cabinet provided members with an overview of the six education and training program partnership opportunities offered by the cabinet to employers. Participation in the programs is voluntary. All services provided by staff of the Education and Training Division are free. Additional safety initiatives conducted by the cabinet include the 2012 Heat Campaign and Tornado Outreach. Staff traveled to 77 counties providing educational information on the dangers of working in heat. After the early March tornadoes in West Liberty and Salyersville, staff traveled to the affected areas handing out free personal protection equipment and urging people to work safely.

Lexington and Louisville's Cooperative Economic Development Efforts

The Mayor of Lexington discussed the Business Economic Advancement Movement, an initiative formed by Louisville and Lexington to promote regional manufacturing and logistics. While there has always been a healthy competition between the two cities, the program goal is about jobs, creating higher wages and higher-value jobs for the future. The plan is based on market-driven analysis and planning. While studies conclude that record numbers of people are migrating to cities and productivity is growing, the plan will benefit surrounding regions as well.

The Director for the Louisville Innovation Delivery Team discussed the importance of manufacturing. While job vacancies exist, the skill set employees need is not easily obtained. Manufacturing jobs have a 2:1 multiplier effect. Other organizations are recognizing the importance of manufacturing in Kentucky's economy. The Kentucky Association of Manufacturing has joined the "Dream It Do It" program, which was created to rebrand manufacturing by making it more attractive as a career. The Science, Technology, Engineering, and Manufacturing Education Coalition has created "Project Lead the Way," which focuses on engineering and engineering technology education in middle and high schools. The Kentucky Community and Technical College System's new strategic plan includes more manufacturing programs. The manufacturing industry will see a major retirement wave over the next 10 years.

Report of the 2012 Interim Joint Committee on Licensing and Occupations

Sen. John Schickel, Co-Chair
Rep. Dennis Keene, Co-Chair

Sen. Tom Buford
Sen. Julian M. Carroll
Sen. Julie Denton
Sen. Denise Harper Angel
Sen. Jimmy Higdon
Sen. Paul Hornback
Sen. Dan "Malano" Seum
Sen. Kathy W. Stein
Sen. Damon Thayer
Sen. Robin L. Webb
Rep. Tom Burch
Rep. Larry Clark
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Rep. Joni L. Jenkins
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LRC Staff: Tom Hewlett, Bryce Amburgey, Carrie Klaber, Michel Sanderson, Alan Jones, and Susan Cunningham

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Kentucky General Assembly

Interim Joint Committee on Licensing and Occupations

Jurisdiction: Matters pertaining to professional licensing not assigned specifically to another committee; racing; prize fighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable, and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers
and land surveyors; architects; real estate brokers and salespeople; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; warehouses and warehousemen; partnerships; and trade practices.

Committee Activity

The Interim Joint Committee on Licensing and Occupations met six times during the 2012 Interim. The committee held one out-of-town meeting at Southern Wine and Spirits, in Louisville.

Alcohol-Related Issues

The President of Alltech said Alltech produces three beers, including Kentucky Bourbon Barrel Ale, at its brewery in Lexington. A distillery at the same location produces whiskey, malt whiskey, and bourbon. Kentucky Bourbon Barrel Ale is sold worldwide. Beer production is being doubled every year, and Alltech has filed for a license to move from a microbrewery to a full brewery. Sampling is an important part of the bourbon trail experience, allowing people to appreciate the talent and the craft of making bourbon. Brewing companies need to be able to hold a souvenir retail malt beverage license to allow tourists to enjoy malt beverages on the premises and take souvenir packages with them. Alltech will request legislation to mirror the provisions currently allowed by the distillery souvenir retail liquor license in a new license for a brewery souvenir retail malt beverage license. Current law requires Alltech to give up its souvenir retail malt beverage license when it grows from being a microbrewery to a full brewery.

The Operations Manager of the Distilled Spirits Epicenter said his company is an artisan distillery and education center. Louisville, given its history and resources, is a natural fit for this type of operation. The artisan distilled spirits industry is following the microbrewing industry's example with small entrepreneurial activities by people willing to invest. There is nowhere in the United States that these people can go to one place and learn the entire operation. Classes at the Distilled Spirits Epicenter cover a full range of topics, including equipment purchases, plant layout, the making of mash, three-tier licensing, and distribution. The company is working with Jefferson Community and Technical College to have a certified educational program. Equipment can be leased to prospective artisan distillers to find out if they really want to invest their money. Larger international companies may use the facility for small, test-run batches for new product development. The third part of the Epicenter is a small bottling line. Typically contract manufacturers want to produce 100,000 cases or more at a time, but the Epicenter has the capability to produce from 50 to 1,000 cases. The company can create the formula for the beverage and teach clients to distill it themselves or just provide equipment, if that is all the client needs.

Rep. Arnold Simpson explained his concept for legislation on election day liquor sales. His bill in 2006 would have modified Kentucky law to permit the sale of alcohol in retail package stores on election day during the hours that the polls are open, but the bill did not pass. Kentucky is surrounded by states that allow sales of alcohol on election day when the polls are open. Only Kentucky and South Carolina have a complete ban on the sale of alcohol during the hours the polls are open. He plans to file a new bill on this issue in the 2013 session.

The President and CEO of the Kentucky Restaurant Association said restaurants across the state have to comply with current law. Recent surveys show that restaurants are losing sales when comparing revenue on primary day to other Tuesdays in May. Some restaurants with multiple locations reported sales ranging from 23 percent to 43 percent lower on election days.

Issues associated with alcohol taxation in Kentucky were also discussed with the committee. Industry representatives told the committee that the 2007 census of the industry showed $871 million in annual sales, with 1,711 wholesale distribution jobs and a total payroll of $70.4 million. The figures do not include jobs at retail distributors such as grocery stores, bars, restaurants, and specialized stores. In 2011, the industry collected more than $112 million in wholesale tax receipts. Since 2006, taxes on wine, malt beverages, and distilled spirits have risen 88 percent. The industry representatives said wine, malt beverages, and distilled spirits are triple taxed. There is the 11 percent wholesale tax. There is an excise tax that has specific taxes for beer ($2.50 per barrel), wine (50 cents per gallon), and distilled spirits ($1.92 per gallon plus an additional 5 cents per case sold). And there is also the blanket 6 percent sales tax on all types of beverages sold. The 2010 census shows that more than 50 percent of Kentuckians live in a county that borders another state. This creates more opportunities for Kentuckians to purchase alcohol from other states with lower prices. Since the implementation of the 6 percent sales tax in 2009, the number of cases of beer sold has declined by over 6 percent, and this appears to be a continuing trend. Retailers in Northern Kentucky have reported that Ohio customers are now staying in Ohio; and Kentucky customers have begun to drive to Ohio, purchase beer, and bring it back to Kentucky for consumption. Additionally, wine sales have not been on par with national growth. Between 2007 and 2010 the reduction in the number of cases sold amounted to $32 million. This led to a loss of 63 wholesale distribution jobs and $2.6 million in lost payroll.

When tax rates on alcohol sales in surrounding states are compared, Kentucky is among the highest in taxes on wine, malt beverages, and distilled spirits. Representatives of the industry say another tax increase will create further deterioration in the industry. Industry representatives said they would like to see a rollback of the wholesale tax from

11 percent to 9 percent. Also, the retail sales tax increase in 2009 has caused Kentuckians to purchase alcohol across borders, particularly in Ohio. Elimination of the retail tax on alcohol could boost sales significantly.

Representatives from the Governor's Task Force on the Study of Kentucky's Alcoholic Beverage Control Laws testified that, in Kentucky, there are more than 80 types of licenses relating to alcohol production or sales and more than 13,000 licensees. Kentucky has 82 counties with some type of alcohol sales. Five years ago there were only 53 counties that had some type of alcohol sales. The Executive Order identified problems of particular importance such as the number and types of licenses, the effectiveness of local election laws, and the enhancement of public safety. The task force wants potential changes in alcohol laws to be revenue neutral and does not want to change any benefits for the licensees. A final report will be submitted to the Governor on January 15.

Prescription Drug Control

The Chairman of the Kentucky Board of Medical Licensure said the board's mission is to protect the public in matters relating to health care. All doctors are reviewed, either with their initial licensure or their reapplication, to make sure that they are qualified to practice medicine. When the board does not see the quality of care that meets the board's standards, an investigation is opened. Disciplinary action is used when needed, and retraining is implemented if necessary. The professions under the supervision of the board include medical and osteopathic doctors, physician assistants, athletic trainers, surgical assistants, and acupuncturists. The board is funded by licensure and other fees, does not receive general fund money, and has a budget slightly under $2.8 million. There are 15,820 licensed physicians in Kentucky.

The Kentucky Board of Medical Licensure maintains a website that verifies information on physician licenses and certifications of other professions under the board's administration. Consumers can look up any disciplinary action against the licensee or certificate holder. The board receives approximately 230 complaints each year. The Kentucky All Schedule Prescription Electronic Reporting (KASPER) trend reports have been an effective tool for the board to use to watch prescribing trends, but KASPER has not been used to its fullest effect.

The board investigates all complaints and can suspend, restrict, or revoke licenses; issue public reprimands; and issue fines for inappropriate conduct or prescribing. All actions are reported to a national data bank. Because of the more aggressive position, the investigative work load has increased and another investigator will be hired soon.

Horse Racing

Staff from the Kentucky Horse Racing Commission (KHRC) reported on the breeder incentive and thoroughbred development funds. Commission staff also provided information on historical racing, which has been implemented at Kentucky Downs. In the first 11 months of the fiscal year, $129 million was wagered on historical racing. This has produced almost $2 million for state programs and $454,528 for the General Fund. The Kentucky Thoroughbred Development Fund has received $1.2 million from Kentucky Downs. Additionally, in the last year advanced deposit wagering (ADW) has become licensed in Kentucky. Licensees are required to submit data showing the amount Kentucky residents are wagering through ADW. The amount wagered by Kentucky residents via ADW in the second quarter of 2012 was more than $47 million. Commission staff said charging one-half percent to return to the industry through incentive programs is not out of line.

The Equine Medical Director for KHRC said the safety of horses and jockeys is a priority and the protocol is the most comprehensive in the world. Kentucky is a model to other racing jurisdictions, both domestic and international. Regarding 810 KAR 1:018, he said allowing only KHRC veterinarians to administer furosemide on race day is a model rule. The recommendation has been endorsed by the American Association of Equine Practitioners and is being practiced in New York, Delaware, and Canada. California is preparing to implement it as well. This has been a standard practice in Kentucky in standardbred racing since 1988. The regulation would also eliminate adjunct bleeder medications. Kentucky is one of the few states that permit adjunct bleeder medications. There is no scientific evidence to support their effect.

The President of the Horsemen's Benevolent and Protective Association (HBPA) said he did not favor the regulations, saying the HBPA does not agree with the using KHRC veterinarians to inject a trainer's horse. The trainer responsibility rule holds the trainer strictly liable if one of his horses tests positive for a banned substance. Private veterinarians said the Kentucky Practice Act clearly states that, in order to administer prescription medication, there must be a veterinary patient-client relation. The commission veterinarians will not have this relationship. Regulation 810 KAR 1:018 was found deficient and returned to the KHRC. Also, 811 KAR 1:090, which is similar to the previous regulation, but applies to standardbreds, was found deficient.

Kentucky Lottery Corporation

The President and CEO of the Kentucky Lottery Corporation reported that, since its inception, the lottery has received just less than $14 billion in sales. About $3.71 billion has been returned to the Commonwealth. $8.33 billion has been paid to winners, $871.2 million has been paid to retailers, and $964.0 million went to operating expenses. Kentucky Educational Excellence Scholarship received $8.3 million. Last year, sales improved by approximately 5 percent, and next year's projection shows similar improvement.

The lottery is enhancing its products and restoring cash prizes to players with instant tickets. Players can enter losing tickets at kylottery.com and accumulate points to cash in for merchandise in the Player's Fun Club-Points for Prizes store, as well as enter top prize drawings. This program is expected to increase sales by 2 to 4 percent. Three other state lotteries—in Arizona, Iowa, and Tennessee—offer this program, and North

Carolina and Missouri will offer Points for Prizes in the summer of 2013. Although participation has decreased in the number of tickets purchased, there has been a 30 percent net revenue increase in the game. Allowing the jackpot to grow more rapidly has attracted more people to the game.

Kentucky Housing Corporation

The CEO of the Kentucky Housing Corporation (KHC) said the agency provides funds for mortgage loans for first homes, administers federal dollars provided to agencies throughout Kentucky that assist the homeless population, and finances construction. All federal resources for housing in Kentucky come through KHC. The Affordable Housing Trust Fund (AHTF) was created by the legislature in 1992 to provide additional financing resources to address the housing needs of Kentuckians whose maximum income is no more than 50 percent of an area's median income. More than 9,000 units have been created with AHTF dollars statewide. The fund fills a gap for low-income families and provides a way for them to achieve home ownership. The KHC has been able to fund units in 119 of the 120 counties in Kentucky.

KHC would like to amend KRS Chapter 198A to remove language regarding the unclaimed lottery proceeds and change reporting requirements since the agency no longer receives those moneys. Also, the law requires applications for funds to be reviewed within 60 days. KHC would like to extend this time to 90 days. KHC partners are fully supportive of this longer application time. KHC would also like to raise fees for recipients that are local non-profit organizations. Recipients receive a 5 percent administrative fee. The KHC recommends that this be raised to 10 percent. KHC also requests more flexibility in determining geographic distribution. Finally, regarding the notification to a community of the construction of a multifamily project, the proposed change would allow for transparent notification. It would ensure that the CEO of the community, whether a county judge or mayor, is notified prior to the application, as well as after the funding for the project is approved. This would also ensure that KHC is in compliance with all fair housing laws.

House Bill 215 Task Force on Electrical Inspection

The Commissioner of the Department of Housing, Buildings and Construction said the task force on electrical inspection was formed in response to HB 215 of the 2012 Regular Session.

There are 275 certified electrical inspectors in Kentucky. There are two types of inspection programs. The noncompliant are "open" counties, and the compliant are "closed" counties. This is a critical issue in HB 215 because noncompliant counties have contractors who do not report to any local or state authority and are not in compliance with Kentucky law. Complaint counties have hired or contracted with an electrical inspector. In these counties, contractors can hire only an electrical inspector designated for that jurisdiction. These inspectors report to local appointing authorities, and these counties are compliant with Kentucky law.

Under the recommendations of the task force, electrical inspectors will register with the Electrical Division. They will be linked to their jurisdictions to allow the division to verify required electrical licensure. Additionally, inspectors will be reporting violations to the department to provide statewide information on violators.

Charitable Gaming

The Commissioner of the Department for Charitable Gaming said that Kentucky ranks in the top six states in charitable gaming nationally. In 2011 charitable gaming in Kentucky was a $394 million industry. Of that, $44 million went to the charities. Although receipts are declining, charities are able to retain the money available to them. The year 2011 also had the lowest number of violations; of the 653 licensees, only 17 did not meet the 40 percent retention required by statute. Fines have also seen a reduction since 2007.

The department understands that charities are run by volunteers with other obligations. However, charitable gaming is an all-cash industry, and it is important to track all money that is passed. The paperwork can be burdensome. Two distributors are interested in helping with a point-of-sale software system that would help charities track the product in their inventory, what is being sold, what their payout should be, and what their net should be at the end of each session. This information could be electronically transferred to the department so the charity is reporting on time. The distributors were allowed to choose the charities they wanted to work with so that a variety of charities could be sampled. Six charities are participating with two distributors. The department does not intend to mandate this software system. However, letters from the participating charities indicate that the electronic tracking and reporting system has improved their ability to report their gaming sessions.

Licensure of Anesthesiologist Assistants

Representatives of the Kentucky Academy of Anesthesiologist Assistants (KAAA) said Kentucky licensing law requires an anesthesiologist assistant (AA) to be also licensed as a Primary Care Physician Assistant in order to obtain licensure. This has stopped AAs from coming into Kentucky since the law was changed 25 years ago. In other states where AAs practice, there is no additional requirement for physician assistant licensure. AAs receive a masters level education in order to assist for anesthesiologists and do not assist other physicians. Changing licensing to allow AAs to practice in Kentucky is endorsed by the Kentucky Society of Anesthesiologists and the Louisville Society of Anesthesiologists. The Kentucky Medical Association remains neutral on the issue, and the Kentucky Academy of Physician Assistants prefers that AAs have their own licensure. Currently, AAs fall under the PA licensing statute.

The President of KAAA stated that he is forced to work in Cincinnati, Ohio, because he does not have a PA license. Case Western Reserve University has expressed an interest in opening an AA program in Kentucky. This would be possible if AAs were able to work in Kentucky without the dual licensing requirement. The modern anesthesia model uses a team composed of an anesthetist, who is in the operating room with the patient, and an anesthesiologist, who sees the patient preoperatively to make the anesthetic plan and who is present for the induction, emergence, and other critical components of the anesthesia. CMS allows an anesthesiologist to supervise up to four operating rooms. The President of the Kentucky Society of Anesthesiologists stated that AAs and certified registered nurse anesthetists are necessary.

Other Licensed Occupations

The State Director of the National Federation of Independent Business said that to become a mover of household goods in Kentucky a company must have a Department of Transportation (DOT) inspection, insurance, bonding, and a Kentucky Household Goods Moving Certificate. When an application is made for a moving certificate, DOT sends a copy of the application to current certificate holders in the area for comments. A staff attorney for the Pacific Legal Foundation said that the system in place in Kentucky for household goods moving certificates prevents people from pursuing their right to earn a living. The applicant must prove that the market is inadequately served, that there is a public convenience for the business, and that the business is in the public interest. None of these criteria have been defined, and only the administrative board knows what the applicant has to prove at the hearing. Competitors can file objections based on vague standards. The competitors' veto has been called unconstitutional under the United States Constitution. Pacific Legal Foundation and Wildcat Movers have filed suit in federal court under the Fourteenth Amendment's equal protection, due process, and privileges or immunities clauses. The United States Supreme Court has ruled that laws that restrict the right to enter into a business must be rationally related to the applicant's fitness and capacity to practice the profession.

The Chairman of the Board of the Kentucky Board of Home Inspectors testified about 815 KAR 6:070, a new administrative regulation regarding per diem and reimbursement for traveling and other expenses for board members. The administrative regulation was found deficient by unanimous roll call vote.

Report of the 2012
Interim Joint Committee on Local Government

Sen. Damon Thayer, Co-Chair
Rep. Steve Riggs, Co-chair

Sen. Walter Blevins, Jr.
Sen. Jimmy Higdon
Sen. Tom Jensen
Sen. Alice Kerr
Sen. Gerald A. Neal
Sen. R.J. Palmer
Sen. John Schickel
Sen. Dan "Malano" Seum
Sen. Robert Stivers
Sen. Johnny Ray Turner
Rep. Julie Raque Adams
Rep. Ron Crimm
Rep. Mike Denham
Rep. Ted Edmonds
Rep. Richard Henderson
Rep. Brent Housman
Rep. Adam Koenig
Rep. Stan Lee
Rep. Thomas M. McKee
Rep. Michael Meredith
Rep. Jody Richards
Rep. Arnold Simpson
Rep. Kevin Sinnette
Rep. Rita Smart
Rep. Jim Wayne

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

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Local Government

Jurisdiction: Matters pertaining to the officers, organization, government, and financing of county and city governments; urban-county governments generally; county- and city-imposed taxes and licenses; special-purpose assessment and taxing districts within a city; financing of local government improvements; issuance of bonds for county, city, and special district projects; local government indebtedness generally; compensation of county and city officers and employees; the imposition of duties and costs on local governments; interlocal government cooperation and consolidation of services; local government employees, civil service, and retirement; the powers, duties, and composition of fiscal courts and municipal legislative bodies; the offices of county judge/executive, magistrate, county attorney, sheriff, constable, jailer, coroner, surveyor, and county clerk; forms of local government; incorporation and classification of cities; housing projects; urban renewal and redevelopment; planning and zoning; annexation of territory; public works; parks and playgrounds; police and fire departments and their retirement systems; county roads; city streets and sidewalks; local government utilities and waterworks; acquisition of waterworks and water districts by local governments; sewers; metropolitan sewer and sanitation districts; public road districts; water districts; fire protection districts; drainage districts and local flood control and water usage; local air pollution control districts; urban service districts; library districts; city and county libraries; county law libraries; special districts not assigned to another committee.

Committee Activity

Special Districts

HCR 53, from the 2012 Regular Session of the General Assembly, required the Interim Joint Committee to study special districts. The Auditor of Public Accounts testified about his special districts study. The Auditor said that special districts represent the most prevalent level of government and that information on the state level is sparse. There are 43 categories of special districts spread on more than 1,000 statutes. There are approximately 1,200 special districts in Kentucky channeling about $1.5 billion annually. Although there is little information regarding the financial operations of special districts, it is important to note that the commitment and effectiveness of the persons operating the special districts are not being questioned. Issues brought to the Auditor's Office sometimes deal with procurement.

The President-elect of the Kentucky Association of Counties (KACo) noted KACo's support of HCR 53 and of the Auditor's efforts. He testified about the methods of creation of special districts, and their unique independent status apart from county and city government. Special districts provide essential services that counties cannot provide.

The Auditor's Office also conducted a statewide survey of special districts and hosted 15 meetings, one in each area development district.

The Auditor had four recommendations:

- Require statutory amendments that would clarify and possibly modify the duties and obligations for fiscal and administrative reporting required by special districts, to include the participation of special districts in local ethics codes;
- Add stronger incentives for compliance with existing reporting requirements and stronger consequences for noncompliance;
- Create a centralized registry for special districts so that fiscal and administrative information can be researched in one place to facilitate the distribution of that information to taxpayers, policy makers, elected and appointed officials, and others with an interest; and
- Create opportunities for education for officials and employees working for and with special districts regarding the districts' statutory and other obligations.

Uniform Occupational License Tax Reform Required by 2012 HB 277

2012 HB 277 requires the Secretary of State to prescribe a uniform occupational license tax form. The Secretary said there are more than 200 distinct taxing districts in Kentucky. The bill required each tax district that imposes an occupational license tax on net profits or gross receipts to submit to the Secretary a copy of its occupational license tax return form with instructions and a copy of its occupational license tax ordinance by November 1, 2012. The state is to post this information online. In addition, the Secretary is required to consult with various entities to adopt a uniform collection form. The form is in development but is not required until 2017.

Additional Issues Conveyed to the Committee by the Secretary of State

The Secretary of State has created, in conjunction with the Finance and Administration Cabinet, Economic Development Cabinet, and Commonwealth Office of Technology, a "One-Stop Business Portal" to serve as a unified entry point for business owners to access and complete initial and ongoing state services and requirements in relation to the creation of ongoing operations of a business located in the state.

The Secretary noted several legislative initiatives with which her office was involved:

- the Kentucky Uniform Fraudulent Conveyance Act;
- the Kentucky Revised Model Nonprofit Corporation Act; and
- the Kentucky Business Entity Transactions Act.

Local Government Use of Clean Fuels Technology

The Executive Director of the Kentucky Clean Fuels Coalition (KCFC) testified about projects affecting federal, local, and school projects. In Jefferson County, there are 50 hybrid school buses, the Transit Authority of River City bus project, electric charging stations at the University of Louisville, E85 refueling stations, and natural gas usage at the Westport LD/Ford Truck Conversions facility.

Western Kentucky has a hybrid school bus program, E85 stations, an ethanol production facility, and biodiesel and natural gas employment. Mammoth Cave is the first national park to use alternative fuels and advanced fuels technologies in all its vehicles and equipment.

Northern Kentucky has hybrid school buses, biodiesel use and production, E85 refueling stations, and natural gas refueling.

Eastern Kentucky features a hybrid school bus program and E85 refueling stations. The City of Somerset uses natural gas refueling and was the first city government in Kentucky to have an electric truck.

KCFC's Green Fleets of the Bluegrass Program was launched in 2011 and strives to improve the environmental performance of fleet vehicles across Kentucky by reducing petroleum fuel use.

The Executive Director urged legislators to look into the natural gas multi-state collaborative.

Interlocal Agreements

The House Co-Chair of the committee distributed a working draft of legislation relating to interlocal agreement training for county fiscal court members. Local officials should be encouraged to use interlocal agreements and understand their use.

Lexington Pension Task Force

The Mayor of the Lexington/Fayette County Urban-County Government testified that the Lexington Pension Task Force hired an outside consultant to help formulate recommendations for possible legislative changes to the statutes governing Lexington's pension for retired police and firefighters. The Mayor said the city and the representatives of the police and firefighters are working together to find solutions. The consultant expects to have recommendations by late December or early January.

Kentucky Association of Counties' 2013 Legislative Issues

The Kentucky Association of Counties (KACo), through its President-elect, presented the 2013 legislative issues agenda:

- Special Districts: KACo supports strengthening compliance with statutorily required reporting and the maintenance of a centralized registry. It also supports consolidation of statutes where appropriate.
- Tax Reform: KACo supports equitable modern reform on the state and local level.
- E-911 Funding: People use wireless devices to access 911 services for the vast majority of calls, but wireless devices account for only a minimum of funding, leaving local governments to make up decreasing revenues from the current

funding architecture. KACo supports changes in the monthly fee assessed to wireless customers to support 911 services.

- Constables: KACo supports abolishing the office of constable.
- Jail Funding: KACo supports the funding of the Local Corrections Assistance Fund, which was used to charge the Catastrophic Inmate Medical Fund with money, and to restore the 12-hour booking rule for pretrial release options available to judges.
- Pension: KACo supports a bond issue for addressing the unfunded liabilities of the County Employees Retirement System (CERS) and the recognition of an 80 percent funding level to be statutorily adequate; the consideration of a separate CERS board; and having the state maintain the retirement benefits for current retirees and active employees, while considering benefit changes to new employees as a last resort.

Kentucky League of Cities' 2013 Legislative Issues

The Kentucky League of Cities (KLC), through its First Vice President, presented the 2013 legislative issues agenda:

- CERS Reform (Pension): KLC advocates that the General Assembly adopt a defined contribution hybrid or cash balance plan for new employees; eliminate automatic cost-of-living adjustments; adopt an 80 percent funding level as being statutorily adequate; make changes to the health insurance benefit structure that will reasonably assist with costs to the CERS; and require higher contribution rates for employees.
- City Revenue Flexibility: KLC supports expanding the authority to allow all cities to have a restaurant tax in lieu of the collection of net profits or gross receipts taxes; a constitutional amendment to allow voters to invoke a special purpose sales tax for particular projects or programs; and revenue sharing between the state and local governments for particular functions.
- 911 Funding: KLC supports legislation that funds 911 to include an increase in the statewide wireless fee, and opposes legislation that will restrict funding options to include the reduction of state-generated moneys from wireless communication devices.
- City Classification Reform: KLC seeks to reduce the number of city classes. It will promote the maximum flexibility for cities with the minimum number of mandates.
- Police Officer Personnel Issues: Applying the "Police Officer's Bill of Rights" only to external complaints is another policy position of KLC.

Report of the 2012
Interim Joint Committee on Natural Resources and Environment

Sen. Brandon Smith, Co-Chair
Rep. James Gooch, Co-Chair

Sen. Joe Bowen
Sen. Ernie Harris
Sen. Tom Jensen
Sen. Ray S. Jones
Sen. Robert J. Leeper
Sen. Dorsey Ridley
Sen. Katie Kratz Stine
Sen. Robert Stivers
Sen. Johnny Ray Turner
Sen. Robin Webb
Rep. Hubert Collins
Rep. Tim Couch
Rep. Keith Hall
Rep. Stan Lee
Rep. Reginald Meeks
Rep. Tim Moore
Rep. Marie Rader
Rep. John Short
Rep. Kevin Sinnette
Rep. Fitz Steele
Rep. Jim Stewart
Rep. Jill York

LRC Staff: Tanya Monsanto, Kelly Ludwig, Stefan Kasacavage, Lowell Atchley, and Kelly Blevins

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Natural Resources and Environment

Jurisdiction: Matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas, and salt water wells; state and national parks; drainage districts; water pollution; air pollution; management of waste; protection of the environment; and the Energy and Environment Cabinet.

Committee Activity

The Interim Joint Committee on Natural Resources and Environment held six meetings between June and November during the 2012 Interim. No subcommittees were authorized. Many topics were discussed during the 2012 Interim, but concern about Kentucky's coal industry and future electric utility costs dominated several meetings. In particular, the committee examined changes in significant federal rules and electric utility rates. The committee held two out-of-Frankfort meetings. In July, the committee traveled to Pikeville for the Mine Safety Competition. In November, the committee traveled to Lexington to visit the Kentucky Geological Survey Well Sample and Core Library and tour the Center for Applied Energy Research.

Changes in Federal Air Quality Rules and Increased Prices for Electricity

Environmental regulation has become more stringent over the past decade with the United States Environmental Protection Agency (EPA) taking a lead role in issuing new federal air quality rules. Over the past few decades, federal air quality rules predominantly addressed acid rain precursors such as sulfur dioxide and nitrogen oxides. However, the federal focus has shifted toward reducing greenhouse gases emissions, carbon dioxide in particular. As with earlier rules, overall emissions limitations are achieved through targeted reductions at point sources such as electric power plants.

In June 2012, a representative from the Kentucky Division of Air Quality testified about several new federal air quality rules, including the greenhouse gas new source performance standards, the air mercury rule, air toxics standards, and the utility most achievable control technology. The greenhouse gas new source performance standard will affect all new fossil-fuel-fired electric generating units and those undergoing major modifications. Since Kentucky uses coal as its principal energy source, the Division of Air Quality anticipates a significant reduction in future coal-fired plant capacity nationwide. States such as Kentucky that use predominantly coal-fired electric generation will see the greatest change as new capacity will trend toward natural gas. With its strict limits on carbon dioxide emissions, the new standard will make natural gas-fired capacity the best available control technology. The rule will promote the switch from coal to natural gas.

One of the more controversial federal rules deals with utility maximum achievable control technologies (MACT). The MACT rule has a short time frame for utilities to implement changes to comply with the federal rule. However, most of Kentucky's electric generating units have made previous investments in emissions reduction technologies during prior requirements to upgrade for nitrogen and sulfur dioxide. Those earlier upgrades put Kentucky's utilities in a good position to comply with the new MACT rule and to reduce hazardous air pollutants such as mercury.

A representative from the Kentucky Geological Survey testified about carbon sequestration and enhanced oil and gas recovery projects in Kentucky. Those projects were the result of a $5 million appropriation by the Kentucky General Assembly. The main findings are that Kentucky can adequately store carbon dioxide in geological formations and that there is adequate storage capacity in the Knox formation. The state could undertake enhanced oil recovery in a wholesale capacity if power plants were to provide carbon dioxide. Also, the Devonian Shale formation is suitable for enhanced gas recovery.

A representative from the University of Kentucky Department of Chemistry testified about research into carbon-based solar cells as a low carbon dioxide footprint alternative to traditional silicon solar cells. Carbon solar cells require less up-front energy to produce, lowering the absolute environmental cost to the community. Also, carbon solar cells are easier to manufacture than traditional silicon solar cells. The department recommended that the Commonwealth, being rich in carbon resources but poor in enough sunny days to economically use them, manufacture carbon solar cells and sell them to states that have an abundance of sunlight. The Center for Applied Energy Research echoed the same idea in promoting high-performance carbon for energy storage. The carbon used in research comes from spent grains used in making bourbon. High-performance carbon is being used in lithium-ion batteries, fuel cells, and electrochemical capacitors.

In July 2011, the committee toured Rio Tinto Alcan and learned that federal actions raising the cost of energy in Kentucky might threaten the industry. In 2012, the General Assembly authorized a study of the impact of electricity rates on the aluminum smelting industry. In October, the committee received a formal report from the consulting firm commissioned to produce the study, which reaffirmed Rio Tinto Alcan's position in 2011. Kentucky's low retail electricity rates have attracted manufacturing industries that depend on cheap electricity. Federal standards to regulate atmospheric emissions from coal-fired sources will raise Kentucky's electricity rates, placing the aluminum industry under intense economic pressure. However, consultants argued that a federal district court decision that vacated the cross-state air pollution rule might delay the requirements that the EPA placed on electric utilities to make further upgrades and investments in pollution control technologies.

Implications for the Kentucky Coal Industry and Coal Severance

The committee examined federal actions affecting the Kentucky coal industry. Two areas dominated: permitting actions by the EPA, and mine safety rules issued and enforced by the federal Mine Safety and Health Administration. Since 2010, Kentucky has been under pressure by federal regulators to alter the state's process of permitting for coal mining. Permits issued by the Kentucky Division of Water under Section 402 of the federal Clean Water Act have been under pending review or denied. Permits issued by the United States Army Corps of Engineers have been reviewed or suspended.

The EPA's interim guidance document that regulators are required to use when issuing other required water permits has impeded the operations of several coal mining companies in Kentucky. As a result, 36 permits filed under Section 402 are under letter of objection by the EPA and require further action by the department. In August, the Kentucky Department of Environmental Protection testified about internal staff reorganization to reduce permit backlog. Due to tight budgetary constraints and staff turnover and retirement, the Kentucky Department of Environmental Protection separated the review of coal permits from other noncoal mining permits.

A lawsuit filed by the Mining Association and the Kentucky Department of Environmental Protection against the EPA was resolved in July 2012. A representative from the department testified in August on the implications of the lawsuit for permits delayed by the EPA. The lawsuit contested use of the interim guidance document that sets the levels of conductivity for water guidelines to be used for reviewing permits. A federal district court affirmed the role of a state as first resort in establishing and implementing water quality standards, but the department anticipates an appeal by the EPA. The court also ruled that the guidance document was not acceptable. While the department requested release of the 36 permits as a part of the ruling, it does not anticipate substantial change in state-federal relations in the coal permitting process.

A representative from the Department of Mine Engineering described research on efforts to reduce levels of conductivity in water. New mining methods, which could be commercialized in the future, may include ways to identify and isolate selenium in the layers of surface area to be mined. If isolated, the selenium can be compacted, removed, and capped. This process will prevent the selenium from leaching into surface waters. The department also reviewed studies to improve mine ventilation systems and develop new technologies to identify problem areas in the roofs of mine shafts. A state-of-the-art experimental mine rescue project will help students train in mine health and safety. The Kentucky General Assembly appropriated $350,000 to conduct a feasibility study, and the department is looking at two facilities in the Lexington area.

At the Pikeville meeting, a representative from the Office of Mine Safety and Licensing testified about mine safety. Fatalities remain high, but the office is improving mine safety analysis and accident review and investigation, and it is continuing with statutorily mandated mine inspections. The office needs new breathing apparatus for mine rescuers that must be in compliance with federal standards. Tight funding has delayed updating equipment.

The federal Office of Surface Mining Regulation and Enforcement issued a Part 733 letter to Kentucky that identified deficiencies in state surface mining regulations related to performance bonding of mine permits. According to the Kentucky Department for Natural Resources, the bond amounts on prescribed performance bonds for the costs of reclamation have been insufficient for 20 years. If the bond amounts are not increased, the surface mining program could be federalized. Emergency regulations filed in May increased the amounts, but the department argued that Kentucky needs to examine creating a statewide bond pool. All mining operations have 5 years to bring their performance bonds into adjusted status.

As a result of declining production in Kentucky, coal severance receipts have declined for the first time, leaving some coal impact counties searching for replacement funds for special projects. A representative from the Office of the State Budget Director explained that coal severance had record receipts for 4 years prior to 2012; however, coal prices dropped, and severance receipts decreased 19 percent in July. Coal severance receipts are expected to decline by 22.8 percent in 2013. Several policy-related changes have affected industries that buy coal, such as the electricity-generating sector, which is substituting natural gas for coal. A representative from the Department for Local Government assured the committee that it will use low projections for coal severance receipts in basing project decisions and that the department has sufficient resources for current project approvals.

Other Natural Resource Concerns

The Kentucky Department of Fish and Wildlife has jurisdiction over hunting and fishing. The commissioner reported on access to public hunting and fishing. Senate Bill 64 from the 2012 session required the commissioner to make a “No Net Loss” report. No net loss means that the balance between acquisitions and sales of lands would not change the public’s access to public land for outdoor activities such as hunting and fishing. The report showed that Kentucky increased its holdings of public hunting land by 4 percent, which was an overall increase of 0.5 percent in public land.

Wildlife enforcement officers have expanded powers and responsibilities in the Commonwealth. A representative from the Kentucky Department of Fish and Wildlife discussed the corporate mission of enforcement in the areas of fisheries, wildlife, and boating safety. The department performs duties such as search and rescue, boating accident investigations, homeland security, drug enforcement in rural areas, and enforcement of hunting and fishing laws.

The Division of Water is required under the Clean Water Act to issue total maximum daily loads (TMDLs) for waters of the Commonwealth identified as impaired. Impaired waters are listed in a 303d report to Congress. Kentucky only recently began the process of developing TMDLs for specific effluents. A representative from Smith Management Group testified about the risks to industry and the Commonwealth associated with the TMDL process. There are about 4,100 TMDLs in process and 114 planned for 2013. Implications from these TMDLs for obtaining permits will affect economic development.

Legislative Recommendations

- The Office of Mine Safety and Licensing recommended that funding be made available for purchase of upgraded mine rescue equipment.
- The Department of Natural Resources, Energy and Environment Cabinet, recommended establishing a statewide reclamation bond pool or revising the existing small-operator bond pool.
- The Interim Joint Committee on Natural Resources and Environment recommended formation of a working group on coal severance tax receipts.
- The Kentucky Department of Fish and Wildlife Resources recommended amending statutes on trafficking inedible wildlife or parts of wildlife by protecting premier species, allowing trade of inedible parts for legal harvest, and revising penalties for violations.
- Christensen Associates Energy Consulting recommended rebalancing utility rates to reduce or eliminate cross subsidies from industrial customer classes to commercial and residential classes, providing assistance in use of industrial revenue bonds for purposes of investing in energy efficiency projects, and using a revolving loan program to support business investment in energy efficiency projects.
- Smith Management Group recommended a public awareness campaign on the Division of Water's development of total maximum daily loads for the Commonwealth.

Administrative Regulations

As of November 1, 2012, the committee had received 14 administrative regulations pertaining to programs in the Department of Fish and Wildlife Resources and the Energy and Environment Cabinet.

Prefiled Bills Referred to the Committee

The committee received no prefiled bills for the 2013 Regular Session.

Reports Received

The committee received 11 reports as of November 1, 2012:

- Kentucky Department of Fish and Wildlife Resources: The Status of Hunting Land Access in Kentucky
- Kentucky Pollution Prevention Center: FY 2011 Annual Report
- Sanitation District 1: 60 Day Update on Implementation of the Auditor of Public Accounts' Recommendations
- University of Kentucky: FY 2011 Annual Report of the Kentucky Interagency Groundwater Monitoring Network.
- Energy and Environment Cabinet, Division of Waste Management: Report of Kentucky's Waste Tire Program
- University of Kentucky: FY 2011 Kentucky Geological Survey Annual Report

- Auditor of Public Accounts: FY 2011 Report of the Audit of the Kentucky River Authority
- Auditor of Public Accounts: FY 2011 Report of the Audit of the Kentucky Heritage Land Conservation Fund
- Auditor of Public Accounts: FY 2011 Report of the Audit of the Kentucky Department of Fish and Wildlife Resources Statutory Audit
- From the Department of Parks: House Bill 166 Annual Report
- 2011-2012 Report on Expenditures and Revenues of the Hazardous Waste Management Fund.

Report of the 2012 Interim Joint Committee on State Government

Sen. Damon Thayer, Co-Chair
Rep. Mike Cherry, Co-Chair

Sen. Walter Blevins, Jr.
Sen. Jimmy Higdon
Sen. Tom Jensen
Sen. Alice Forgy Kerr
Sen. Gerald A. Neal
Sen. R.J. Palmer II
Sen. Dorsey Ridley
Sen. John Schickel
Sen. Dan "Malano" Seum
Sen. Robert Stivers II
Rep. Linda Belcher
Rep. Johnny Bell
Rep. Kevin D. Bratcher
Rep. Dwight D. Butler
Rep. Larry Clark
Rep. Leslie Combs
Rep. Tim Couch
Rep. Will Coursey
Rep. Joseph M. Fischer
Rep. Danny Ford
Rep. Jim Glenn
Rep. Derrick Graham
Rep. Mike Harmon
Rep. Melvin B. Henley
Rep. Martha Jane King
Rep. Jimmie Lee
Rep. Mary Lou Marzian
Rep. Brad Montell
Rep. Lonnie Napier
Rep. Sannie Overly
Rep. Darryl T. Owens
Rep. Tanya Pullin
Rep. Tom Riner
Rep. Carl Rollins II
Rep. Bart Rowland
Rep. Steven Rudy
Rep. Sal Santoro
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Rep. John Tilley
Rep. Tommy Turner
Rep. Jim Wayne
Rep. Alecia Webb-Edgington
Rep. Brent Yonts

LRC Staff: Judy Fritz, Kevin Devlin, Brad Gross, Alisha Miller, Karen Powell, Greg Woosley, Peggy Sciantarelli, and Terisa Roland

**Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly**

Subcommittee Organization and Membership

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

Sen. Damon Thayer, Co-Chair
Rep. Darryl Owens, Co-Chair

Sen. Walter Blevins, Jr.	Rep. Kevin D. Bratcher
Sen. Jimmy Higdon	Rep. Larry Clark
Sen. Tom Jensen	Rep. Joseph M. Fischer
Sen. Alice Forgy Kerr	Rep. Derrick Graham
Sen. Gerald A. Neal	Rep. Mike Harmon
Sen. R.J. Palmer	Rep. Melvin B. Henley
Sen. Dorsey Ridley	Rep. Mary Lou Marzian
Sen. John Schickel	Rep. Bart Rowland
Sen. Dan "Malano" Seum	Rep. John Will Stacy
Sen. Robert Stivers	

Rep. Mike Cherry, ex officio

LRC Staff: Greg Woosley, Judy Fritz, Karen Powell, and Terisa Roland

Interim Joint Committee on State Government

Jurisdiction: Matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the General Assembly, its committees, officers, and service agencies; redistricting; the Governor; the Lieutenant Governor; intergovernmental cooperation; state-federal relations; interstate compacts; administrative organization; administrative regulations; statutory administrative agencies; Department of Law; Secretary of State; state personnel; state retirement systems; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths, and bonds; public information; disaster and emergency services; state and regional planning; the libraries; archives and records; public corporations; Commonwealth's attorneys; circuit clerks; the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local, and school board positions; election commissioners, officers, and precincts; qualifications, registration, and purging of voters; regular elections; primaries; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absentee ballots.

Committee Activity

The Interim Joint Committee on State Government held five meetings during the 2012 Interim, focusing on the Kentucky Lottery Corporation, state employee health insurance and employment data, health insurance for state retirees, legislative ethics, the Kentucky Public Pensions Task Force, and administrative regulation review.

Kentucky Lottery Corporation

The President/CEO and the Chief Financial Officer of Kentucky Lottery Corporation (KLC) testified about lottery sales, net income history, distribution of lottery proceeds, operating results, and projections for FYs 2012 and 2013.

Sales were flat in 2010 and 2011, but record sales of $817.7 million were projected for FY 2012, with $210.8 million projected to go to the Commonwealth and $8.5 million of unclaimed prize money to the KEES (Kentucky Educational Excellence Scholarships) Reserve Fund. From 1989 through June 30, 2011, $1.75 billion was distributed to the General Fund, including $214 million for the SEEK (Support Education Excellence in Kentucky) program. $1.66 billion went to grant/scholarships and the KEES Reserve Fund, $36 million to literacy development, and $20.8 million to the Affordable Housing Trust Fund (FY 1999 through FY 2003). The KLC Board has budgeted dividend transfers of $223 million to the Commonwealth for FY 2013.

The General Assembly removed the 28 percent minimum requirement for dividend transfers to the Commonwealth in the 2012 budget. This will allow the lottery to be more competitive in the marketplace and more profitable in the future. The goal is to have a prize payout of 68.8 percent on instant tickets, which account for approximately 60 percent of sales. KLC is working on plans for a Player Engagement Rewards Program that will be funded by 1 percent of the instant ticket prize fund and is expected to increase sales by 2 to 4 percent.

KLC spends approximately $10 million annually on advertising but is restricted by statute from advertising how lottery proceeds are distributed. KLC is permitted to advertise on its website how proceeds are distributed but cannot through paid advertising. Past legislative efforts to remove the restriction have failed. The CEO advocated reconsideration of this issue by the General Assembly, based on the belief that citizens have the right to know where the money goes and that removal of the restriction would lead to increased sales.

Medicare Plan for State Retirees

The Executive Director of Kentucky Retirement Systems (KRS) explained that Medicare-eligible retirees—approximately 34,000 "over 65" retirees plus those eligible for Medicare as a result of disability—have been covered by the KRS self-insured plan since 2006. The board voted on August 6 to implement a Medicare Advantage (MA) plan offered by Humana Insurance Company for Medicare-eligible retirees, effective January 1, 2013. The KRS self-insured program is supplemental to Medicare, but the new MA plan is a fully insured program under Medicare Part C. Financial analysis by the KRS actuary projected cost savings of $45 million to $67 million over the next 2 years by moving to the MA plan.

Benefit levels offered by Humana match benefits provided under the KRS self-insured plan and, in addition, offer a wellness program. Cost savings will be shared by retirees and the KRS Health Trust, on approximately a 50/50 basis. Under the new plan, Medicare-eligible retirees who pay all or a portion of their premium will realize a substantial cost reduction, and the Health Trust will save $20 million to $35 million. Humana is able to offer favorable rates because of a sizable federal subsidy in which pharmaceutical companies pay half the cost of the Medicare Part D coverage gap ("doughnut hole"). Under the Affordable Health Care Act, the subsidy is expected to be reduced in April 2013, but Humana will honor its rate commitment for 2 years, regardless of what happens at the federal level. In the second year of the new plan, Humana proposes that combined premium and administrative costs will not increase more than 12 percent, which will still result in a projected savings of $18 million. If deemed necessary, KRS has the flexibility to later make application to return to the self-insured program.

A key issue that led to selection of Humana was that the board would retain control of the drug formulary, which has been a source of significant savings to KRS' overall health insurance program. The network of out-of-state providers serving Kentucky's border areas will remain the same. Retirees will not be restricted to Humana's network or have to change primary care physicians. Humana advised that 99 percent of all Kentucky physicians accept the Humana MA plan; if not, Humana will reimburse the retiree directly.

Kentucky Employees Health Plan

The Commissioner of the Department of Employee Insurance and the General Counsel for the Personnel Cabinet testified about the Kentucky Employees Health Plan (KEHP) for the 2013 plan year. Two percent increases in the employer contribution were budgeted for both plan years 2013 and 2014. The average increase in employee contributions is 5 percent, but rates for single coverage will not change. The Standard PPO plan will continue to offer a zero dollar employee contribution for nonsmokers. Sixty-five percent of plan members are enrolled in the Optimum PPO plan. Coinsurance percentages will not change, and rate increases and benefit adjustments are relatively minor. A new federal law has reduced the maximum that may be contributed annually to a flexible spending account from $5,000 to $2,500 per participant. There is a small modification to emergency room coverage that should not have a material impact on that benefit. The criteria for emergency services will be based on a “reasonable layperson standard.” The benefits analyzer tool will again be provided in paper format and sent by US mail.

Permissible plan design and employee contribution changes for 2013 are limited in order to maintain grandfathered status under the Affordable Care Act. KEHP has saved approximately $15 million by retaining grandfathered status but will probably lose grandfathered status in 2014, which means the plan will become subject to at least an additional $15 million in benefits. The cabinet is planning for 2014 and the changes that will be brought by federal health care reform. In keeping with federal health care reform mandates, W-2s for the 2012 tax year will report the health insurance contributions of both employer and employee, for informational purposes only.

KEHP has received approximately $95.5 million from the Early Retiree Reinsurance Program (ERRP) established by federal health care reform to help employers with the cost of medical claims for retirees ages 55–64. Kentucky ranks in the top 10 states relative to the amount of funds received and will use the funds to offset KEHP’s and members’ health benefit costs. However, the ERRP program has ended, and reimbursement funds must be used no later than December 31, 2014.

KEHP’s wellness program has been rebranded as *Living*Well. The main tool of the wellness plan is HumanaVitality, a fully incentivized, interactive wellness program that uses behavioral economics to improve health with actuarially optimized incentives. The program has also been implemented at Georgetown’s Toyota Motor Corporation. HumanaVitality and Walmart are establishing a partnership to promote healthful eating by offering a discount on healthy foods. The worksite wellness program includes employee care clinics, a wellness coalition, a healthy meetings initiative, and employer-sponsored events. Programs targeted for children include *Vitality Kids* and the Alliance for a Healthier Generation. Business First Louisville has recognized KEHP as one of Kentucky’s healthiest employers.

State Employee Quarterly and Semi-Annual Reports

The Director of The Division of Employee Management, Personnel Cabinet, testified about employment numbers for the Executive Branch. Based on the state employee count of 33,700 on January 1, 2012, the workforce was the smallest it had been since 1974, when the total was 32,521. At the beginning of the current gubernatorial administration, the count was 35,325.

Legislative Ethics

The Executive Director and the General Counsel for the Kentucky Legislative Ethics Commission presented the Commission's recommended changes to the Kentucky Code of Legislative Ethics. The recommendations included a longer list submitted in prior years, but this year the commission submitted only five recommendations that commission members agreed are the most important for consideration by the General Assembly.

Task Force on Kentucky Public Pensions

The Task Force on Kentucky Public Pensions, created in the 2012 Regular Session by HCR 162, adopted final recommendations for reform of Kentucky's pension system in November and subsequently presented them to the Interim Joint Committee on State Government. The task force's final report to LRC is mandated to be delivered by December 7, 2012. The Pew Center on the States and the Laura and John Arnold Foundation lent their expertise and assistance to the task force throughout the process. The proposed reforms apply to the systems administered by Kentucky Retirement Systems—the Kentucky Employees Retirement System (KERS), the County Employees Retirement System (CERS), and the State Police Retirement System (SPRS). They also apply to the Judicial Form Retirement System, which includes the Legislators Retirement Plan and the Judicial Retirement Plan, but do not include the Kentucky Teachers Retirement System.

Administrative Regulation Review

The committee reviewed three Kentucky Retirement Systems administrative regulations: 105 KAR 1:400E, 105 KAR 1:420, and 105 KAR 1:430.

Subcommittee Activity

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

The Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs held three meetings during the 2012 Interim. The task force considered a variety of issues over the three meetings, including a review of the May 2012 primary, candidate filing periods in special elections and their impact on military and overseas voters, candidate filing fees, the threshold for campaign finance reporting requirements, individual contribution limits to campaigns, days on which local option elections are held, prison population allocation for redistricting, and a House Concurrent Resolution urging Congress to propose a constitutional amendment to limit campaign contributions and expenditures.

The Secretary of State reviewed the May 2012 primary and reported a statewide turnout of 13.9 percent, which was slightly higher than expected based on past election cycles. The Secretary noted that there was a range of 10–40 percent turnout in individual counties and 25 counties that had a turnout greater than 20 percent, with counties that had local races on the ballot, especially circuit clerk races, seeing greater participation numbers. The Secretary stated that the election went relatively smoothly, but that there were 28 calls received by the State Board of Elections and 31 calls received by the Attorney General's fraud hotline reporting voting and machine issues throughout the primary day.

The Secretary of State also discussed a few legislative initiatives that her office would likely pursue in the 2013 Regular Session. The Secretary reviewed a lawsuit in Franklin Circuit Court relating to the inability of her office to comply with the federal Military and Overseas Voter Empowerment (MOVE) Act of 2009 in a called special election. The Secretary stated that Kentucky law requires candidate nominating petitions to be filed at least 28 days before a special election, but that the MOVE Act requires absentee ballots to be transmitted to military and overseas voters within 45 days of the election, which is impossible to comply with given the shorter candidate filing period. The Secretary stated that the General Assembly needs to correct the deadline conflict, and that her office would be advocating for that amendment in the 2013 session.

The Secretary of State testified that her office would advocate for the General Assembly to increase candidate filing fees in the 2013 Regular Session. Many of Kentucky's filing fees are lower than in neighboring states, and an increase in fees would directly increase funds available to administer elections—a cost borne by the counties if fees are insufficient. The Secretary also advocated for authority to waive a second filing fee for a candidate who has filed and paid the fee for a General Assembly office that subsequently changes in district number and/or boundaries following redistricting.

The Registry Chairman and the General Counsel of the Kentucky Registry of Election Finance presented potential legislative agenda items for the 2013 Regular Session. The Registry Chairman discussed the possibility of changing campaign finance reporting requirements from the two-tiered system to a single dollar amount threshold that would trigger reporting requirements. The Registry Chairman noted that the "twin threshold" system exempts candidates who raise or spend less than $1,000 from filing any reports; that candidates who raise or spend between $1,000 and $3,000 are required to file one report after the election; and that candidates who raise or spend more than $3,000 are required to make all pre- and post-election reports. The Registry Chairman and General Counsel explained that this system is confusing for candidates and results in the Registry expending a great amount of resources to educate candidates on this issue, and they recommended that the General Assembly consider adopting a single dollar amount threshold that would exempt candidates below the threshold from filing any reports and require full reporting for any candidates who exceed the threshold. The discussion between the Registry and the task force members focused on a range for the threshold from $3,000 to $10,000, but several members expressed concern over no reports being required if the amount were much higher than $3,000 to $5,000.

The Registry also discussed the possibility of the General Assembly increasing the individual campaign contribution limit per election. The Registry Chairman stated that Kentucky has an individual contribution limit of $1,000 per election, but that the Registry has researched contribution limits in several surrounding states and noticed that most limits are higher—and some significantly higher—than in Kentucky. The Registry did not recommend a specific dollar amount, but the Registry Chairman noted that setting the limit to conform to federal campaign finance law, and indexing the level to inflation, would bring Kentucky into conformity with a well understood body of law and was likely a good proposal to consider from the Registry's perspective.

The task force heard from the Leslie County Clerk and the Oldham County Clerk on the days on which local option elections are required to be held. The clerks began by noting that current Kentucky law requires local option elections to be held on days other than a primary or regular election day, and that this requirement is costly for counties. The Oldham County Clerk stated that Oldham County has had three local option elections in the past 15 months at a total cost of more than $17,000, and that one of these elections had a 3.6 percent turnout—56 votes cast—and cost the county $3,399.92. She noted that SB 179 in the 2012 Regular Session would have required local option elections to be held on either a primary or regular election day, and both she and the Leslie County Clerk advocated for that cost-saving statutory change. The discussion on the issue did raise the concern that a community could desire to have a local option election vote in a year in which no primary or regular election was scheduled, which would require a county to wait an additional year to hold the election. The clerks agreed that this could be a concern and had no objection to a bill that would address the issue with a contingency to account for years with no scheduled elections.

The Executive Director of the Prison Policy Initiative testified on the manner in which prison populations are counted and allocated by the United States Census Bureau and the effect the allocation has on redistricting and the electoral process. Counting and allocating prisoners at the site of the prison where they are housed, as opposed to their last residential address, can result in substantial disparities in the relative weight of representation in legislative districts and shifts large blocks of population away from urban areas toward rural areas. He gave some examples of counties in Kentucky that have sizable prison populations and noted that a few Kentucky county governments have removed these populations from census counts for their local reapportionment plans. He also testified that several state and numerous local governments around the country have reallocated prisoners back to their last residential address for redistricting purposes and that such reallocation has been consistently upheld by reviewing courts.

The task force also discussed BR 139, a House Concurrent Resolution urging Congress to propose a constitutional amendment to limit contributions and expenditures in campaigns. A retired attorney and citizen activist testified that it was his belief that the United States Supreme Court opinion in the *Citizens United v. Federal Election Commission* case has allowed too much money to flow into and influence political campaigns and has greatly diminished the ability of individual citizens to effectively participate in the electoral system.

Report of the 2012
Interim Joint Committee on Transportation

Sen. Ernie Harris, Co-Chair
Rep. Hubert Collins, Co-Chair

Sen. David Givens
Sen. Jimmy Higdon
Sen. Paul Hornback
Sen. Ray Jones
Sen. Bob Leeper
Sen. R.J. Palmer
Sen. John Schickel
Sen. Tim Shaughnessy
Sen. Brandon Smith
Sen. Damon Thayer
Sen. Johnny Ray Turner
Sen. Mike Wilson
Rep. John Arnold
Rep. Linda Belcher
Rep. Kevin Bratcher
Rep. Leslie Combs
Rep. Tim Couch
Rep. Will Coursey
Rep. Jim DeCesare
Rep. David Floyd
Rep. Keith Hall
Rep. Richard Henderson
Rep. Melvin Henley
Rep. Jimmie Lee
Rep. Donna Mayfield
Rep. Charles Miller
Rep. Terry Mills
Rep. Lonnie Napier
Rep. Rick Nelson
Rep. Tanya Pullin
Rep. Marie Rader
Rep. Steve Riggs
Rep. Sal Santoro
Rep. John Short
Rep. Arnold Simpson
Rep. Fitz Steele
Rep. Jim Stewart
Rep. Tommy Turner
Rep. David Watkins
Rep. Alecia Webb-Edgington
Rep. Addia Wuchner

LRC Staff: John Snyder, Dana Fugazzi, Brandon White, and Jennifer Beeler

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Transportation

Jurisdiction: Matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service, and operating regulations; motor carriers; construction and maintenance of the state highway system; the Department of Transportation; state aid for local roads and streets; the State Police; the Federal Highway Safety law; turnpike authority; state and federal highways; limited access facilities; use of road bond moneys; automobile recyclers; highway beautification; bridges, tunnels, and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Committee Activity

The Interim Joint Committee on Transportation met five times during the 2012 Interim.

Repair of Eggners Ferry Bridge

The Department of Highways testified about the ship collision into the Eggners Ferry Bridge located on the US 60/KY 80 corridor, crossing the Land Between the Lakes recreation area. On January 26, 2012, the cargo ship M/V Delta Mariner, holding rocket parts for NASA, collided with the bridge and destroyed a 322-foot span of the bridge. There were no deaths or major injuries as a result of this accident. The accident occurred on a Thursday evening, and by Friday at noon, cabinet inspectors were analyzing the damage.

On February 17, the cabinet received the inspection report finding that there was no damage to any pier. The cabinet received three quotes to repair the bridge; the low bid, $7 million, was from Hall Contracting of Louisville, which was awarded the contract on March 7. The contract required completion by May 27 with no incentive to complete early but a $50,000 penalty per day for going over the projected completion date. The contractor finished the project early, and the bridge was reopened on May 25. Federal funds will pay for the project. Hall Contracting was also the company that repaired the Sherman Minton Bridge in Louisville in the fall of 2011 after a routine inspection found cracks in the welded supports of that bridge.

Implementation of the Electronic Auto Insurance Reporting System

Since 1975, Kentucky law has required vehicle liability insurance. In 2004, House Bill 29 created an electronic verification system between insurance companies and the state's AVIS database. The system went into full statewide implementation in 2012.

Before enforcing this new electronic system, the cabinet put together a pilot testing group with Anderson, Ballard, Boyd, Bullitt, Christian, Laurel, Pike, and Pulaski counties. Despite all testing, there will be an estimated 30,000 to 35,000 uninsured notice letters mailed out monthly during the first year of full statewide implementation. The letters will be received by the fifth business day of each month. Customers must take action within 30 days or have their vehicle registrations canceled.

Four key issues could cause a mismatch in the database: a mismatch between the vehicle identification number (VIN) in the insurance database and the one in the AVIS database due to a typographical error; insurance misclassification, such as a commercial vehicle being classified as a personal vehicle; incomplete title transfer, when a vehicle has recently been sold; and historic or seasonal vehicles.

The benefit of this new program is that insurance is automatically verified for approximately 90 percent of vehicle registration renewals. The program will reduce the occurrence of forged or fake proof of insurance cards and encourage the uninsured to become insured. The cabinet's website has several links to frequently asked questions, and a description of the mandatory insurance program. Various types of communication are being used to inform citizens about the program.

In response to questions, the cabinet explained that there is no way county clerks or the cabinet can intervene with enforcement regarding an individual who chooses to drive without insurance. Once the registration on a vehicle is suspended, an individual may continue to drive until pulled over by law enforcement. However, an individual must show proof of insurance when renewing registration.

Implementation of 2012 Regular Session Legislation

The cabinet explained that all relevant legislation passed during the 2012 Regular Session met the implementation dates set out in legislation, with two exceptions. House Bill 221, which allows for a veteran's designation on an operator's license, was delayed due to programming issues resulting from redigitizing the licenses. It was fully implemented in September. House Bill 518, which sets the standard for farm implement vehicle escorts, required changes to an administrative regulation. The regulation was effective on July 6, 2012.

Kentucky Farm Bureau's Farm Vehicle Regulation Guide

A representative from Kentucky Farm Bureau said the new Farm Vehicle Regulation Guide is an overview of farm vehicle regulations for constituents, county clerks, Department of Vehicle Enforcement, and other interested parties. If an individual has a farm plate on a vehicle, the vehicle, trailer, and load must be under the 38,000-pound requirement in order to be exempt from licensing.

Enforcement of Small Commercial Vehicles (10,001 to 26,000 pounds)

The definition of a commercial motor vehicle is any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property. There are four weight classes for commercial vehicles. The one discussed was a vehicle that has a gross vehicle weight rating or gross vehicle combination weight rating of 10,001 pounds to 26,000 pounds. Regardless of the weight designation on the license plate, if the physical weight of the truck and trailer is more than 10,000 pounds or the manufacturer's weight rating is more than 10,000 pounds and the vehicle is being used in commerce, it is considered a commercial vehicle.

Kentucky has adopted the definition of interstate commerce, as well as other federal regulations, to apply to intrastate carriers. If an individual stays within Kentucky with a commercial vehicle, the individual must comply with the adopted federal regulations not exempted by statute.

Road Fund Update

Representatives from the Transportation Cabinet testified that the Road Fund for Fiscal Year 2012 exceeded the Consensus Forecasting Group's estimate by $31.3 million. The official estimate for Road Fund revenue was $1,412.5 billion; the total revenue collected for FY 2012 was $1,443.8 billion. During the Fiscal Year close-out process, $50.3 million was deposited into the Surplus Expenditure Plan. Comparing FY 2012 to FY 2011, there was fiscal growth in Motor Fuels receipts by 7.8 percent, in Motor Vehicle Usage receipts by 9.2 percent, and in other taxes by 5.6 percent, with an overall increase of 7.8 percent. Projected Road Fund estimates are $1,498.9 billion for FY 2013 and $1,568.0 billion for FY 2014.

MAP-21, Federal Highway Funding Reauthorization

The previous federal highway funding bill SAFETEA-LU, expired September 30, 2009. Since that time, there have been 10 extensions reauthorizing federal highway funds for 34 months. The new federal reauthorization bill, known as the Moving Ahead for Progression in the 21st Century Act (MAP-21), became law on July 6, 2012. The law authorizes and funds the federal surface transportation program for 27 months; new provisions took effect on October 1, 2012. The bill includes $18.8 billion in general fund transfers into the Federal Highway Trust Fund.

One of the main differences between SAFETEA-LU and MAP-21 is that MAP-21 consolidates the previous 12 funding categories into six categories: National Highway Performance; Surface Transportation Program; Transportation Alternatives; Metropolitan Planning; Congestion Mitigation; and Highway Safety Improvements. A key element to MAP-21 is the institution of a performance-based, risk-based asset management plan designed to preserve and improve the condition of the national highway system by establishing performance measures and targets.

Kentucky will receive $614 million in FY 2012 under SAFETEA-LU and $643.6 million in FY 2013 under MAP-21. MAP-21 and most of the provisions associated with it began October 1, 2012.

Unspent Federal Earmark Funds Returned to Kentucky

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

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

"State's Support of Non-Highway Modes of Transportation" study by the University of Kentucky Transportation Center

A representative from the University of Kentucky Transportation Center explained that the State's Support of Non-Highway Modes of Transportation study began because Kentucky has an extensive multimodal transportation system that consists of much more than just highways. Compared to highways, other transportation modes get limited state support. The study did not develop any recommendations, but it supplied a comparison of the funding alternatives for these four modes of transportation used in selected states. Kentucky, along with two of the seven surrounding states, has constitutional restrictions on how transportation-related revenues may be spent; Indiana is the only state that has statutory restrictions.

Within Kentucky, 57 airports are eligible to receive financial support from the Transportation Cabinet and Federal Aviation Administration. In recent years, trust fund revenues have been redirected to the Kentucky General Fund. These funds, which amount to approximately $10 million, are to be used for the development, rehabilitation, and maintenance of publicly owned or operated aviation facilities. Kentucky also collects approximately $2 million in ad valorem property taxes from commercial aviation carriers, but these funds also go to the general fund. The primary source of funding for planning and development for public use airports is the Federal Airport Improvement Program. Federal funds are available as a 75 percent federal, 25 percent state and local match for large airports. For small airports, the federal share is 95 percent with only a 5 percent state match required (half local and half state).

The Transportation Center took each comparison state for each mode of nonhighway transportation and compared the structures in Kentucky and the support that the state can provide in comparison with the select target states. All permit funds accrued in the Aviation Economic Development Fund are used to fund aviation activities as set forth in KRS 183.525(5) rather than diverting to the general fund. Another opportunity that could help the aviation industry in Kentucky would be to raise or eliminate the cap on jet fuel tax.

In regard to public transportation, Kentucky has three urbanized area systems, numerous smaller urban area systems, and rural services. Public transportation is regulated by the cabinet's Office of Transportation Delivery. For the public transit companies, the major source of funding is through the Federal Transit Administration. The report identifies several opportunities to give public transportation a chance to grow, including providing state funding for operating assistance, distributing some state funds by formula, providing reimbursement programs to support reduced or eliminated fares for elderly and/or disabled persons, generating or allocating sales tax revenues for public transportation, and dedicating state lottery revenues for public transportation services. There are also opportunities to establish transportation financing programs for large capital transit projects. Kentucky could also use innovative federal financing programs, such as the Grant Anticipation Notes program and the Transportation Infrastructure Finance and Innovation Act program, to help secure funding for large capital transit projects.

In Kentucky, rail transportation freight service is provided by five Class I railroads, one regional railroad, and seven local railroads. The industry pays ad valorem property and corporate income taxes as a revenue source for Kentucky. Opportunities to improve rail transportation in Kentucky were to secure a dedicated source of revenue; establish a state infrastructure bank to fund transportation projects of all modes; create a passenger rail trust fund using federal funds for passenger and high-speed rail; offer tax incentives which can be applied to Class I railroads; and seek public-private partnerships with the federal government, other states, and privately owned railroads. Updating the state rail plan with short-term and long-term plans for the development of rail infrastructure in the state would be beneficial, as well as identifying potential partners for freight and passenger initiatives by taking a more active role in interstate associations.

Kentucky has more than 1,250 miles of navigable waterways, with seven active public ports and more than 300 private ports. The waterways are administered by the Kentucky Transportation Cabinet's Division of Planning. The United States Army Corps of Engineers maintains the lock and dam infrastructure. In 2010, the General Assembly enacted a Water Transportation Advisory Board to advise the Governor's Office, General Assembly, Transportation Cabinet, and Cabinet for Economic Development on waterway issues. Also in 2010, the General Assembly authorized two trust funds, one for capital improvements and one for marketing assistance, but did not appropriate money for them.

The study found several opportunities to boost waterways in Kentucky. One strategy is to establish a dedicated water transportation or maritime unit in the state's transportation agency. Alternatively, one state has opted to situate its waterways program in the economic development office. Kentucky could also make constitutional or statutory changes to provide support and funding for infrastructure improvements and waterway transport using fuel tax revenues, or dedicate state funding for capital, infrastructure improvements, and marketing projects and inland ports.

Procedures for Hazardous Materials Vehicles Traveling Through the Cumberland Gap Tunnel

The Cumberland Gap Tunnel is located in the Cumberland Gap National Historic Park, between Middlesburg, Kentucky, and Cumberland Gap, Tennessee. It includes two 4,600-foot tunnels, one for northbound traffic and one for southbound traffic. Each tunnel has two lanes of traffic. The Cumberland Gap Tunnel Authority has 36 employees to cover the operation, which runs 24 hours a day, 7 days a week. All employees are cross-trained to be emergency medical technicians and firefighters at the hazardous materials operations level, and they are trained in vehicle extrication and OSHA regulations. Maintenance on the tunnel is both preventive and demand-based. The authority responds to any incident in any general area of the tunnel and covers incidents ranging from small to major.

With hazardous materials escorts, a truck hauling any type of hazardous materials must be inspected before reaching the tunnel. After the inspection is completed, traffic is stopped in both directions and the truck hauling the hazardous materials leads the escort vehicle through the tunnel. After the truck passes through the tunnel, traffic resumes. In an average week, there are approximately 550-600 escorts. Seventy percent are local carriers that travel to Knoxville, Tennessee, to get loads of fuel to bring to Kentucky for storage.

Parking Placards for the Disabled

The cabinet receives numerous complaints about people misusing disability parking placards. In 2008, when a $6 fee was charged for a permanent placard, approximately 26,000 placards were issued. During the 2008 Regular Session, legislation was passed to remove the fee to obtain a placard; succeeding years have seen a large increase in the amount of placards issued, reaching approximately 230,000 in 2012. Temporary placards have also increased, but not as dramatically. In 2008, approximately 6,000 were issued; as of October 2012, approximately 8,800 have been issued.

One issue is that there is no requirement for a physician’s signature for each placard renewal. A placard expires after 2 years, but an individual is allowed to renew the placard twice before having to acquire a physician’s signature, for a total of 6 years to hold the placard. The expiration on the placard is handwritten and can be easily altered. Local law enforcement is primarily concerned with the data received from the placard system inquiry. When law enforcement query a placard, the officer may receive a message indicating it is not found. When a query is run on a specific placard, the information that should come back is a name, address, Social Security number, placard number, expiration date, or status of the placard. It is the responsibility of the county clerk’s office to input this information.

One possibility to improve the placards is to modify the design to a hole punch expiration date, which would decrease the chance of someone altering the expiration date.

Another option would be to have a sticker decal on the placard with the month and year of expiration.

Auditing Procedures for Reporting Under the International Fuel Tax Agreement

The International Fuel Tax Agreement (IFTA) is an agreement among the 48 contiguous states and 10 of the Canadian provinces to distribute motor carrier fuel taxes based on the miles driven in each jurisdiction. The agreement simplifies fuel reporting used by interstate motor carriers. Each driver will pay a usage tax at the pump when purchasing diesel fuel; this tax is a fuel usage tax when a driver is driving through certain states. Taxes collected through IFTA are motor fuel taxes that are imposed by each jurisdiction on the consumption of motor fuel in qualified motor vehicles. To qualify for IFTA, a motor vehicle must be used in interstate operations, have a gross vehicle or registered gross vehicle weight exceeding 26,000 pounds, or have three or more axles regardless of weight.

Benefits to the licensee include the need for only one license and one set of decals for each qualified motor vehicle to operate through all member jurisdictions. This allows the licensee to file only one tax return each quarter with the base jurisdiction. There is only one tax payment or refund and one audit by the base jurisdiction. Benefits to each jurisdiction include fewer taxpayers, lower administrative costs, increased audit coverage, and increased enforcement. The Kentucky Transportation Cabinet oversees licensing of IFTA carriers, processes tax returns, and conducts training sessions throughout the year so the carriers understand what is required. Upon annual renewal, the licensee must sign a form indicating an understanding of all recordkeeping requirements to go along with having an IFTA decal.

A licensee is required to maintain a beginning and ending odometer reading by vehicle for each quarter, a trip sheet, driver's logs, lease agreements for vehicles leased, quarterly distance recaps for each IFTA vehicle, and fuel receipts for bulk purchases and retail purchases.

A licensee can handle bulk fuel by paying taxes directly to the supplier or paying a tax under a separate return filed with the jurisdiction where the fuel was purchased and stored.

Human Service Transportation

A representative from the Transportation Cabinet, Office of Transportation Delivery, testified about the number of providers in each county and a breakdown of which brokers served as providers. The 1915(b) waiver the cabinet has received from the Centers for Medicare and Medicaid Services (CMS) will allow brokers to serve as providers.

Kentucky has operated under the 1915(b) waiver for quite some time. Following the Deficit Reduction Act of 2005, Kentucky chose to make several changes to its

Medicaid transportation delivery system. CMS urged the state to use the state plan instead of the waiver to alleviate some of the administrative burdens associated with the waiver. In 2009, federal law changed and restricted the ability of brokers to serve as anything other than a provider of last resort. At this point, the Medicaid program pursued a 1915(b) waiver to ensure an adequate number of providers.

Prefiled Bills

The committee had no prefiled bills referred during the interim.

Report of the 2012 Interim Joint Committee on Veterans, Military Affairs, and Public Protection

Sen. Jack Westwood, Co-Chair
Rep. Tanya Pullin, Co-Chair

Sen. Joe Bowen
Sen. Perry B. Clark
Sen. Carroll Gibson
Sen. Vernie McGaha
Sen. Dennis Parrett
Sen. Joey Pendleton
Sen. Dan "Malano" Seum
Sen. Tim Shaughnessy
Sen. Kathy W. Stein
Sen. Mike Wilson
Sen. Ken Winters
Rep. Royce W. Adams
Rep. Linda Belcher
Rep. Johnny Bell
Rep. Regina Petrey Bunch
Rep. Tom Burch
Rep. Dwight D. Butler
Rep. Mike Cherry
Rep. Larry Clark
Rep. Leslie Combs
Rep. Tim Couch
Rep. Ron Crimm
Rep. Robert R. Damron
Rep. Myron Dossett
Rep. Bill Farmer
Rep. David Floyd
Rep. Jim Glenn
Rep. Jeff Greer
Rep. Martha Jane King
Rep. Jimmie Lee
Rep. Donna Mayfield
Rep. Terry Mills
Rep. Tim Moore
Rep. Rick G. Nelson
Rep. Fred Nesler
Rep. Tom Riner
Rep. Carl Rollins II
Rep. Rita Smart
Rep. John Tilley
Rep. Ben Waide
Rep. Alecia Webb-Edgington

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

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Veterans, Military Affairs, and Public Protection

Jurisdiction: Matters pertaining to military affairs and civil defense; national guard; veterans; retention of military bases; veterans' rights, benefits, and education; veterans' nursing homes; military memorials and cemeteries; safety of citizens and security of public buildings and property; fire prevention and protection; foods, drugs, and poisons; pure foods and drugs; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; and garbage and refuse disposal.

Committee Activity

Veterans

Resolutions Honoring Fallen Soldiers. The Veterans, Military Affairs, and Public Protection Committee honored the memory and sacrifice of two fallen soldiers from Kentucky.

Veterans in Piping Training Program. A representative with the United Association of Plumbers, Pipefitters, and Sprinkler-fitters (UA), gave a brief overview of the Veterans in Piping Program (VIP). Veterans ages 22-24 returning from Iraq and Afghanistan have an unemployment rate more than three times that of nonveterans in the same age group. One reason they are struggling to find work is that one in five have experienced post-traumatic stress disorder (PTSD). Many employers refuse to hire veterans because they assume they will have PTSD and that it will affect job performance. Many veterans experience difficulties when re-entering the civilian world because it is less structured than military life.

One solution to the problem is the UA, which has 390,000 members and 212 training facilities, and has partnered with the US military to create the UA VIP Program. The program provides returning veterans with two weeks of transitional training to civilian life and then 16 weeks of accelerated welding training. The training is free to veterans, who upon completion are placed in construction careers nationwide, helping to replenish an aging workforce while rebuilding America's infrastructure. Welders are in high demand, making job opportunities plentiful for welders who are well trained and highly skilled after their intensive training program. A recent graduate of the VIP program briefly described his experience applying for and participating in the program as well as his placement in a welding career.

Kentucky Access to Justice Veterans Task Force. A justice with the Kentucky Supreme Court testified about the Kentucky Access to Justice Veterans Task Force. A veterans subcommittee was formed with all the aspects of government represented, including federal government members, and includes the co-chairs of this committee. Two of the main issues to be resolved are awareness of when a veteran interacts with the justice system and issues in connecting veterans to services available.

The subcommittee is working to help direct police officers and pretrial officers to recognize veterans. It wants to get a veteran's arrest action automatically entered into a database, with all information in the main database within a year. The new driver's license that will indicate if an individual is a veteran will assist a police officer in identifying veterans. The Court of Appeals has data about a veteran's status on the clerks' computers. This process will allow the clerks to easily sort out veterans' cases and place them together to be handled in court.

Finding ways to designate veterans on the criminal side of the justice system is progressing, but identifying veterans in civil cases is harder. If the General Assembly mandated veteran status on civil complaints and forms, veterans could be linked with appropriate services. For example, veterans can get and be eligible for a one-time program to fix a car for transportation to a job, among other services. Not all veterans would qualify for some programs, depending on the specific circumstances. There are four legal aid groups that will help veterans with financial difficulties. The subcommittee has gathered a list of more than 1,100 attorneys who are veterans and who provide pro bono work for qualifying veterans. The Supreme Court justice believes that a lot of barriers have been broken and that, with some legislative changes to require veteran identification on the civil side of justice, progress could be even greater.

National Association of Black Veterans (NABVETS). The State Commander of NABVETS discussed the 5-year plan for the National Association of Black Veterans (NABVETS) in Kentucky. The organization has three chapters and would like to expand with three more. NABVETS would like assistance with identifying Dixie Highway in Louisville as Patriot Parkway. He stated that 16 private cemeteries with veterans need to be brought to a higher standard. An annual Veterans Day at the State Fair was started this year.

The Senior Vice-Commander of the Kentucky State Military Order of the Purple Heart encouraged legislation to make Kentucky a Purple Heart state. He is leading a campaign to have 150 Purple Heart cities.

Hiring Kentucky Heroes. The Commissioner of the Kentucky Department of Veterans Affairs provided a general description of the new initiative "Hiring Kentucky Heroes," which is a focused effort to collaborate in order to help veterans find employment after returning home from service. The Deputy Secretary of the Department of Education and Workforce Development spoke about his agency's role in the collaboration of state and federal agencies that work on veterans' issues and hiring. The Deputy Secretary stated that Hiring Kentucky Heroes is a partnership among the Education and Workforce Development Cabinet, Committee for Employers' Support for Guard and Reserve, National Guard, United States Department of Labor Veterans Employment and Training Services, Department of Veterans Affairs, Community and Technical College System, Cabinet for Economic Development, Kentucky Chamber of Commerce, Small Business Administration, Kentucky Small Business Development Center, Yellow Ribbon Reintegration Program, and the University of Louisville Office of

Military Affairs Partnerships. His agency has an agreement with the Department of Labor providing that federal resources flow through his agency for veterans outreach. The collaboration has most recently been working directly with troops coming home from Iraq and Afghanistan.

A veterans program specialist with the US Department of Labor spoke about those areas of the collaboration that fall under the US Department of Labor Veterans' Employment and Training Service. The agency provides ongoing technical assistance to veterans, National Guard, reservists, transitioning service members, and employers pertaining to employment, reemployment, and military service. The agency acts as the administrator for competitive grants that assist in reconnecting veterans with employment. In Kentucky, one program is serving to reintegrate 152 homeless veterans into employment. The grant for $300,000 is for 1 year with two 1-year renewal options. The Transition Assistance Program is an employment workshop that provides instruction and guidance on job search and employment readiness skills such as writing, interviewing, and converting military experience into employment specific skills. The agency is the administrator for the Jobs for Veterans State Grant, a staffing grant that allows the state to efficiently staff the employment offices with Disabled Veteran Outreach Program and Local Veteran Employment Representative employees. The $2.5 million grant includes 40 staff members—all veterans—who provide coverage for all Kentucky counties.

Robley Rex Louisville Veterans Medical Center Relocation. The Director of the Robley Rex Louisville Veterans Medical Center spoke on the Wounded Warrior Initiative, in which the hospital partnered with Fort Knox for soldiers returning home with a disability who are waiting on decisions for medical clearance either to go back to the military or to be discharged to civilian life. During this wait, the soldiers are working at Robley Rex. The Wounded Warrior program started with two individuals helping the veterans to acclimate to society and jobs that will work with their disability or situation by working at the medical centers. The medical center now has 24 Fort Knox soldiers working in this program and hopes to eventually have 100 individuals helping.

The Director testified about the new Robley Rex Louisville Veterans Medical Center. Land has been purchased off of Brownsboro Road adjacent to the Watterson Expressway. The Brownsboro site became the site for a number of reasons. The center has just finished the master planning phase, which is laying out the requirements of the facility and the space needed for different departments. The goal is to have it open by 2018. The center is holding town hall meetings with constituents and veteran groups to get feedback on what is needed and has spoken with residents because it will be located in a residential community.

Kentucky Department of Veterans Affairs Update. The Commissioner and Deputy Commissioner of the Kentucky Department of Veterans Affairs (KDVA) stated that the state veterans' homes all have waiting lists for beds. The commissioner stated that the planned Radcliff Veterans Center has a gap in funding between the current VA building requirements, what the state has already committed, and what the VA has indicated is the maximum amount it will provide. Regardless of this funding gap, KDVA intends to bid the project in January 2013, with construction starting in the spring of 2013.

KDVA intends to begin participating in the Medicare and Medicaid programs with its nursing home residents. It began assessing the billing requirements and financial structure necessary to bill Medicare and Medicaid in August 2012, and it held informational meetings with residents and families in September. KDVA is awaiting certification by the federal programs and hopes to begin having patients apply for Medicaid early next year. Initially, 40 percent of residents will qualify for Medicare or Medicaid billing. Within 1 year, the rate will increase to 50 percent.

The Commissioner and Deputy Commissioner also testified about the projects funded through the Veterans Program Trust Fund, including assistance in opening a homeless veterans' shelter in Western Kentucky and providing a grant to the Administrative Office of the Courts for a Veterans Treatment pilot program. The trust fund also provided a grant to the University of Louisville for a veterans' entrepreneurship program and for various organizations to purchase vans to assist transporting veterans with medical needs.

Military Affairs

National Guard Participation in Hiring Kentucky Heroes. The Adjutant General of Kentucky spoke of the National Guard's participation in the Hiring Kentucky Heroes program. Because the National Guard has been called upon frequently since 9/11, many soldiers went on multiple deployments and were employed by the Army on a regular basis. Many soldiers had never had a real job in the private sector when they returned home and stopped continuous deployments. The collaboration with other state and federal programs aimed at increasing veteran and National Guard hiring is making a difference. Many private sector jobs have been identified in the past 6 months in which the soldiers can use their military skills. He believes there will be a day when, if a soldier is unemployed, it will simply be because the soldier does not want to work.

Blue Grass Army Depot Briefing. The public affairs officer provided an overview of the Blue Grass Army Depot (BGAD), which is part of the Joint Munitions Command (JMC). The mission of the JMC is to provide America's Joint Forces with ready, reliable, and lethal munitions at the right place and time, in a cost-effective manner, to enable successful military operations. The JMC mission is 10 percent contingency operations and 90 percent training. The public affairs officer outlined the BGAD chain of command and the BGAD–JMC Ammunition Management. BGAD consists of 14,594 acres, 22 square miles, 1,228 structures, 902 igloos (ammo bunkers), 174 miles of road, 41 miles of railroad track, and close proximity to I-64/I-75. BGAD's operations officer outlined the number of employees at BGAD and broke them down between civilian contractors and employees and military employees. The economic impact that BGAD provides the state is about $169.8 million.

BGAD's core competencies are to receive, store, maintain, issue, and demilitarize conventional munitions. The public affairs officer discussed the industrial capabilities of the BGAD and the chemical defense equipment (CDE) Program, and said BGAD is the Army's sole source provider of CDE and has worldwide support to store, inspect, test, and ship all CDE to Afghanistan or Iraq.

BGAD also provides land for training by active duty and reserve components of the Army, Marine Corps, and Navy, as well as the National Guard, ROTC, and the JROTC. In FY 2010, 4,500 personnel trained at BGAD, and in FY 2011, more than 5,000 personnel used the facilities for training. In FY 2012, the depot began formalization of mobilized ordnance specific training. BGAD has partnerships with the US Army; Blue Grass Unite; Lean Six Sigma; University of Kentucky; Eastern Kentucky University; Kentucky National Guard; Association of Machinists and Aerospace Workers International Union; Armament Research Development & Engineering Center; US Army Tank Automotive, Research, Development and Engineering Center; Rock Island Arsenal; and Voluntary Protection Programs.

Public Protection

Kentucky Office of Homeland Security Update. The Executive Director of the Kentucky Office of Homeland Security (KOHS) stated that the Kentucky Intelligence Fusion Center (KIFC) disseminates intelligence information and is an all-crimes resource for the local, state, and federal entity. The State Fire Marshal and Public Health are the newest members located in the KIFC. KOHS also provides statewide intelligence classes for law enforcement and fire services via the KIFC.

The Interoperable Communications/Command trailers continue to support local responders during emergencies. There are four communications trailers strategically placed across the state. Those communications trailers were used during the floods in the spring of 2011, when they acted as the emergency operations center in Livingston County when it was evacuated. The trailers were also used when the bridge collapsed in Cadiz, and all four trailers operated at one location for the first time after the West Liberty tornado.

The Executive Director discussed the grant program and the various authorized equipment used by first responders that is eligible for grant funds. Funding received for local grants was $27,616,000 in fiscal year 2004 and is down to $2,241,052 in fiscal year 2012. Total funding obligated for the Law Enforcement Protection Program, since July 1, 2011, has been $684,098. This funding paid for body armor, three canine vests, patrol rifles, shotguns and ammunition, duty weapons and ammunition, and tasers and cartridges.

KOHS is revising the State Preparedness Report/State Strategic Plan, leading an exercise at the Kentucky State Fairgrounds, and doing a full-scale exercise for nuclear detection at Louisville Metro government. KOHS will also be announcing FY 2012 grants and will have an executive reorganization order for KIFC.

Heavy Search and Rescue Initiative. KOHS distributes federal grant funds for heavy search and rescue programs, which are generally located in urban areas, including the two in Kentucky. The assistant chief of the Louisville Fire and Rescue Department explained that heavy search and rescue is also called technical search and rescue, and its primary mission is to find and rescue people affected by major widespread disasters while working with multidiscipline teams. In addition to searches of collapsed buildings, search and rescue helps in situations such as the West Liberty tornadoes, the massive Middlesboro flooding, and potential earthquakes along the New Madrid Fault.

The battalion chief from the Lexington Fire and Emergency Services Department explained the funding history for heavy search and rescue teams, which started in 2005 with a grant to the Louisville Fire and Rescue Department. This was a one-time resource because the US Department of Homeland Security began diverting the urban funds to larger cities that it deemed more likely to experience terrorist attacks. The Louisville and Lexington departments have each received a KOHS grant on one other occasion but do not otherwise have a continual funding source. The assistant chief stressed the groups' history of working together and in partnership with other emergency and first responders, as well as specialized civilian resources such as construction equipment companies, engineers, and medical personnel. He also explained the multitude of specialized and credentialed training necessary to meet federal standards to serve in this capacity. Louisville and Lexington meet the Type I capabilities of a collapse search and rescue team but want to collaborate to meet the Type II technical rescue capabilities.

The cities also want to develop a state training strategy and eventually have a legislatively enacted and funded program, develop satellite teams throughout the state that are at least partially trained in these search and rescue techniques, provide state-sponsored training, and therefore be able to provide the entire state with this needed expertise in a timely manner. All surrounding states provide ongoing state funding for heavy search and rescue needs. Current response times from Louisville and Lexington throughout the state may not be adequate. For a multistate emergency such as a severe New Madrid Fault earthquake, Kentucky may not be able to rely on resources from the surrounding states.

Kentucky State Police Training Facility Tour. A representative from the agency's operations division led members on a tour of the Kentucky State Police (KSP) training facility. He discussed the advantages of the facility's central location and stated that KSP can offer training to federal, state, and local agencies. It will be beneficial for KSP to have its own administration building, cafeteria and dining facility, multipurpose room for ceremonies and other events, a weight room, dorms where cadets can be housed, and land for physical training, among many benefits to having the property and facilities.

A lieutenant colonel with the State Police indicated KSP's vision for the future of the facility beyond the remodeling of the dorms and administration building, including hopes for an indoor firing range so that KSP can dictate its own training schedule rather than conform to the schedule of borrowed facilities. The added space and the new site's potential will allow KSP to have more cadet classes, which will help increase the number of troopers in the field. With 900 total troopers in Kentucky and only 475 of them on the road, KSP has fewer troopers in the field than ever before.

Report of the 2012
2012 SS HB 1 Implementation and Oversight Committee

Sen. Robert Stivers, Co-Chair
Rep. John Tilley, Co-Chair

Sen. Jimmy Higdon	Rep. Linda Belcher
Sen. Ray S. Jones II	Rep. Sara Beth Gregory

LRC Staff: Jonathan Grate, Ben Payne, and Marlene Rutherford

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

2012 SS HB 1 Implementation and Oversight Committee

Jurisdiction: Section 14 of HB 1 of the 2012 Special Session provided, "The Legislative Research Commission is requested to appoint a House Bill 1 Implementation and Oversight Committee consisting of three senators and three representatives to monitor the implementation of this Act during the 2012 legislative interim."

Committee Background

HB 1 placed additional controls on pain clinics, including a requirement for physician ownership and a requirement that clinics have on site a physician with specialized training or certification in pain management. The bill also established mandatory minimum diagnostic protocols before the prescribing of any Schedule II drug as well as any Schedule III drug containing hydrocodone. These protocols required, except in cases of emergency, performing and charting a physical exam of the patient, acquiring patient education and consent specific to the prescribed drug, and querying the state's prescription drug database (the KASPER system) to obtain the patient's previous prescription history. The bill also placed additional responsibilities on the boards that regulate the professions that prescribe and dispense controlled substances, including physicians, nurses, pharmacists, and dentists. The responsibilities included a requirement to establish regulations governing prescribing and dispensing of controlled substances, investigating and prosecuting licensee misconduct, requiring background checks for licensees, recognition of out-of-state enforcement actions, and continuing professional education. The bill also contained a number of provisions to enhance the state's KASPER system, including statutory and interstate compact provisions to enhance interstate connectivity, increasing the types of persons who may access the system, and providing funding to improve the system's basic functionality and responsiveness.

Given the comprehensive nature of the bill and the reliance on regulations to accomplish many of the bill's objectives, the bill also established a HB 1 Implementation and Oversight Committee composed of three senators and three representatives to operate during the 2012 Interim.

Committee Activity

The HB 1 Implementation and Oversight Committee met five times during the 2012 Interim.

Regulations

The committee heard testimony over the course of the entire interim on the administrative regulations pertaining to prescribing and dispensing controlled substances that HB 1 required various professional licensing boards to promulgate. The committee began this activity with briefings on the structure, content, and enforcement plans for the regulations as presented by representatives from the boards of Medical Licensure, Nursing, Pharmacy, Dentistry, Optometric Examiners, and Podiatry. These regulations were filed as emergency regulations, with ordinary regulations being promulgated during the fall. The regulations generated a considerable amount of discussion in the regulated community, and the committee received testimony from representatives of the various regulated communities as to their views on and operational experience with the regulations, including the Kentucky Hospital Association, the Lexington Clinic, the Kentucky Medical Association, the Kentucky Chapter of the American College of Emergency Physicians, the Kentucky Chapter of the American College of Physicians, the Kentucky Academy of Family Physicians, the Association of Nurse Anesthetists, the Kentucky Pharmacists Association, nursing homes, and pain management facilities. The committee was also briefed on the ongoing efforts of the executive branch to engage the regulating agencies and stakeholders in a collaborative effort to achieve a satisfactory regulatory framework.

KASPER

Representatives from the Kentucky All Schedule Prescription Electronic Reporting (KASPER) program briefed the committee on the adaptation, operation, and upgrade of the system in light of HB 1. KASPER receives data from pharmacies on the number and types of controlled substances dispensed to Kentuckians and archives that information into a database searchable by medical and law enforcement professionals to ascertain a person’s prescription history. The KASPER representatives discussed the successful enrolling of all prescribing and dispensing professionals in Kentucky, how the system is actually queried by those physicians and others making searches, and how the system has responded to the increased number of new accounts and queries. The representatives also discussed their ongoing efforts to interconnect the KASPER system with the drug monitoring programs of other states, KASPER’s new ability to allow physicians’ delegates to run the queries, and plans for future KASPER upgrades made possible by $4 million in new KASPER funding contained in HB 1.

Substance Abuse Treatment

Another focus of committee activity was hearing testimony on substance abuse treatment modalities from the peer-driven, medication-assisted, faith-based, and comprehensive care center based communities in Kentucky and the effects of HB 1 on those communities and the patients in them. Included in this briefing was a focus on the need for treatment for drug-addicted pregnant women; during the past decade, Kentucky has seen a 2,400 percent increase in the number of babies from drug-addicted mothers, with a concurrent dramatic increase in fiscal and societal costs.

Law Enforcement

The committee also heard from representatives of law enforcement, with narcotics officers testifying about the observed street-level effects of HB 1 and the use of new HB 1 investigatory tools. These effects included an increased effectiveness in identifying pill mills and an increase in the street price of illegally diverted prescription drugs, but also a rise in the use of heroin as an alternative drug.

Report of the 2012
Task Force on Kentucky Public Pensions

Sen. Damon Thayer, Co-Chair
Rep. Mike Cherry, Co-Chair

Sen. Jimmy Higdon	Rep. Derrick Graham
Sen. Paul Hornback	Rep. Keith Hall
Sen. Joey Pendleton	Rep. Brad Montell
Sen. Dorsey Ridley	Rep. Marie Rader
Sen. Mike Wilson	Rep. Brent Yonts

Sen. Bob Leeper, nonvoting ex officio
Rep. Rick Rand, nonvoting ex officio

LRC Staff: Brad Gross, Jennifer Hays, Frank Willey, and Peggy Sciantarelli

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Task Force on Kentucky Public Pensions

Jurisdiction: The Task Force on Kentucky Public Pensions was created as a result of HCR 162, enacted in the 2012 Regular Session of the General Assembly. Staff from the Pew Center on the States and the Laura and John Arnold Foundation offered to assist the task force at no cost to the Commonwealth. The goal of the task force and its participants was to improve the long-term financial health of Kentucky's public pension funds.

Task Force Activity

The Task Force on Kentucky Public Pensions held six meetings during the 2012 Interim, focusing on an overview of the Kentucky Retirement Systems (KRS), national public pension issues and individual state reactions to address these issues, testimony from interested groups and organizations, an overview and preliminary report by the Pew Center and the Laura and John Arnold Foundation, and proposals for final consideration.

Kentucky Retirement Systems Overview

The Executive Director and the Chief Investment Officer of the Kentucky Retirement Systems presented an overview of the systems. The overview focused on the three plans administered by KRS: Kentucky Employees Retirement System (KERS), County Employees Retirement System (CERS), and State Police Retirement System (SPRS), including information regarding plan administration; the composition of the nine-member Board of Trustees that administers the systems; the KRS organizational chart; annual totals of retired, inactive, and active members from 2006 to 2011; and membership by system and status (hazardous/nonhazardous) as of June 30, 2011. KRS administers retirement benefits for more than 324,000 state and local government employees and retirees. As of June 30, 2011, KRS assets were $14.77 billion. Each year KRS pays $2 billion in pension and insurance benefits, with 95 percent of benefit payments delivered to Kentucky residents. Other topics discussed included the statutory benefit formula; retirement eligibility criteria for hazardous and nonhazardous members, with participation dates prior to and on or after September 1, 2008; health insurance benefits for members participating prior to July 1, 2003, between July 1, 2003 and August 31, 2008, and on or after September 1, 2008; FY 2011 analysis of initial retirees, by system; KRS funding sources; United States public pension fund revenue sources from 1982 to 2009; actuarially recommended and actual employer contributions for the FY 2012–2013 budget biennium; and the recommended and budgeted employer contribution rates since 1990 for KERS-Hazardous, KERS-Nonhazardous, and SPRS.

The overview also included the KRS investment program; Pension Fund asset allocation targets and statistics; KRS Pension Fund asset allocation versus averages for funds of similar size across the country; fiscal and calendar year investment returns for the KRS Pension Fund since 1990; the short-term and long-term performance of Pension

Fund investments as of April 30, 2012; and risk/return analyses of the KRS investment program.

The Chief Investment Officer stated that KRS is responsible for managing assets on behalf of 10 plans; seven of those plans have the same asset allocations, and three have different asset allocations, based on the specific cash flow needs and liquidity requirements of the plans. The allowable ranges for asset allocation are more constrained than they have been historically in order to help ensure a more consistent meeting of targets and improve long-term investment performance.

The Executive Director stated that the new accounting standards, GASB 67/68, will change the way of accounting for and reporting pension liabilities, but it will divorce the accounting and reporting from funding. It will be up to the KRS Board to establish a funding policy. Without reasonable funding of the liabilities, the state's credit rating is likely to suffer. Ultimately, KRS actuaries will have to determine whether there will be transition costs. GASB 67/68 requires that liabilities be determined and reported using the "entry age normal cost" actuarial method, with unfunded liabilities financed under the level percentage of payroll method. This is the current method used by KRS. The KERS-nonhazardous fund has a cash flow problem, which means contributions cannot be "back loaded." The money must be available up front for investment purposes and to pay for benefits. The systems' actuaries contend that KRS cannot afford an actuarial method that permits "back loading" of benefits in the KERS-nonhazardous plan.

The combined unfunded liability of KERS-nonhazardous was $11.28 billion at the end of FY 2011. Total combined unfunded liability for KERS-nonhazardous, KERS-hazardous, and SPRS was $12.34 billion, a slight increase from FY 2010 due to investment losses in 2008 and 2009, even though investments did well in 2010. Combined unfunded liability of CERS was $6.89 billion, also a slight increase from FY 2010.

According to KRS officials, a significant cause of the increase in unfunded liabilities is the reduction in employer contribution rates in KERS and SPRS. The shortfall has been $2.86 billion over the last 20 years. Other causes include cost inflation for retiree insurance; funding to significant new health insurance liabilities that were reported beginning in 2006 as a result of GASB 43/45; benefit enhancements; retiree cost-of-living adjustment (COLA) increases that were not prefunded; and market losses in 2000-2002 and 2008-2009. There have not been any significant benefit increases since 2001. The total increase in the unfunded liability from 2005 to 2011 in the KERS-nonhazardous pension plan is attributed to investment loss (18.7 percent), COLA and benefits (19.8 percent), changes in actuarial assumptions (12.6 percent), employer contribution shortfall (17.4 percent), demographic and salary experience (6.8 percent), and "other" (24.7 percent—due partly to the closed amortization period).

National Public Pensions Issues and Individual State Reactions to Address These Issues

Researchers from the Pew Center on the States and from the Laura and John Arnold Foundation explained that their research has focused on public sector retirement systems and that they have looked closely at six Kentucky pension plans: KERS Hazardous, KERS Non-Hazardous, State Police Retirement System, Judicial Retirement Fund, Legislators' Retirement Fund, and Kentucky Teachers' Retirement System.

Their presentation included charts illustrating 2011 funding levels and recommended and actual contributions in Kentucky's pension plans; growth of liabilities and decline in assets from 2000 to 2011; and a US map showing states that have reduced the COLA or switched to a new plan type, or both.

They also pointed out that since 2003 public employers have not been able to make the full contributions recommended by actuaries. Kentucky's pension plans were fully funded in 2001, with a substantial surplus. A combination of benefit increases—including COLAs—and investment losses from the 2001 recession created a funding gap. From 2004 onward the plans did not get enough contributions from the state to keep them on a sustainable path. The pension reforms enacted in 2008 point to long-term savings but will have a limited impact in the short term. Initial estimates suggest that the reforms will have saved the state a little more than $30 million in 2011; meanwhile the state fell short by about $300 million in making contributions that same year. In the KERS Non-Hazardous plan the total annual cost for pension and retiree health care benefits was a little under 6 percent of payroll in 2003, compared to a little more than 44 percent in 2013. Even if benefits are cut for new workers, closing the funding gap would still require a substantial infusion of money.

Nationally, states faced an unfunded liability of $1.38 trillion in 2010 for reasons similar to those in Kentucky: insufficient contributions, retroactive benefit increases, and investment losses. Kentucky was one of just four states that had funded less than 55 percent of pension obligations, along with Connecticut, Illinois, and Rhode Island. However, Kentucky was one of just 10 states found to be solid performers in managing retiree health care obligations.

Nine states have reduced cost-of-living adjustments. In court challenges the changes have been upheld in some cases, and in others the legal battles are continuing. Under recent pension reforms in the city of San Jose, California, workers can accept either the new, less generous rules for benefits, or higher contribution rates. A recent proposal by the Governor of Illinois gave workers a choice of retaining COLA adjustments or their retiree health benefits.

Some states have been considering new pension plan models that are more affordable, pose less risk to the state, and potentially could offer a benefit better aligned with the states' workforce needs. Virginia is putting new workers in a hybrid plan with a smaller defined benefit and an individual retirement account.

Louisiana and Kansas created new plans that offer an individual retirement account with many of the protections commonly associated with a traditional pension plan. Workers would have an individual account, and benefits would be based on how much was in the account at retirement. Unlike a 401(k)-style plan, the state would guarantee a minimum return rather than leaving all investment risk with workers, and would allow retiring workers to easily buy annuities that would protect them from outliving their retirement savings. Plans of this type—called a cash-balance plan—are already in use in Nebraska and Texas.

Testimony from Interested Groups/Organizations

Kentucky Association of Regional Mental Health/Mental Retardation Programs (KARP) was represented by the Executive Director. KARP is the association representing Kentucky's 14 community mental health centers (CMHCs), which were established by the General Assembly in 1966.

CMHCs support approximately 1 of every 25 Kentuckians and employ about 9,000 individuals. In FYs 2011 and 2012, CMHCs spent approximately $104 million on contributions to the Kentucky Employees Retirement System—equivalent to the budget of four reasonably sized CMHCs. The significant increase in the employer contribution to KERS poses the greatest threat to the financial stability of the participating CMHCs. Since FY 2006, the KERS-mandated employer contribution has increased from 5.89 percent to 23.61 percent and is set to increase to 26.79 percent in FY 2014. This unfunded mandate cannot be sustained and could result in bankruptcy for some CMHCs.

KARP offered the following solutions for consideration: fund the increased employer contribution in the budget; direct CMHCs to pay a base rate—perhaps the first 15 percent—with the remainder funded in the biennial budget; issue a pension bond to help address the unfunded liability; permit CMHCs to offer an alternative defined contribution retirement plan to new hires after a date certain; and amend KRS 61.520 to permit KRS to treat CMHCs the same as regional universities. KARP feels that a 401(k) option for new hires would be very appropriate.

Kentucky Chamber of Commerce was represented by its President and Chief Executive Officer. Kentucky's business community contributes about 40 percent of state revenue in income, corporate, and sales taxes, and the Chamber is concerned about the unsustainable trends in public employee benefits. Increased spending on benefits is taking needed funding away from education at all levels. This is particularly disturbing, because education attainment is necessary for economic growth.

The chamber recommended: do not approve COLAs for retirees until the system is adequately funded; place new employees in a defined contribution plan, with a portion of the employer share of the contribution used to fund a bond issue to help finance transition from the current defined benefit program; provide financial incentives for current employees to convert to the new plan, to help limit the unfunded liability; amend

KRS 61.650 to require the KRS Board of Trustees to consider the impact on the state budget of retirement benefit changes that they recommend or support; and prohibit the practice of "double dipping," which compounds the pension problems and is not allowed in the private sector.

Kentucky Association of Counties (KACo) was represented by LaRue County Judge/Executive and President-elect of KACo. KACo proposed that a hybrid pension option would adequately provide for future employees' retirement, ensure that they would not face a future funding crisis, and address the fact that current KRS contribution rates are using a disproportionate percentage of limited resources.

To address the unfunded liability of the County Employees Retirement System (CERS), KACo proposed issuance of a bond, freezing the current employer contribution rate, lowering the current tax exemption on retirement income, and creating a separate governing board for CERS. The unfunded liability of CERS is currently estimated at $6.9 billion. If an 80 percent threshold would be considered an adequately funded amount, a $5.5 billion bond issue, with historically low bond rates, would place CERS at that threshold. The FY 2013 CERS-nonhazardous employer contribution rate is 19.55 percent, and the hazardous duty rate is 37.6 percent. With a bond issue pushing the funding level of CERS to the 80 percent threshold, the balance of the employer contribution above the normal contribution rate could be used to pay the debt service for the bond—approximately $40 million monthly. This would also give long-term rate consistency to struggling local governments.

KACo advocated that CERS be permitted to be governed by its own board. Local governments have been consistent in paying 100 percent of the required employer contribution. CERS, currently funded at about 63 percent, is not anticipated to experience the cash flow problem currently projected for KERS. The KRS Board must make investment decisions on behalf of all five plans based on the cash flow needs of the most poorly funded program in the system. With a separate board, CERS would be in a better position to adjust investment options to a more long-term, higher-yielding investment strategy.

Kentucky League of Cities' (KLC) representative was the Chief Governmental Affairs Officer, who focused all remarks on CERS. Kentucky cities have voted pension reform as their top legislative priority for the past five legislative sessions, and it will no doubt be the top priority for the 2013 Regular Session. The employer contribution rate for nonhazardous employees is 19.55 percent and 37.6 percent for hazardous duty employees—250 percent higher than in 1991. This year it is expected that city governments will pay $212 million into CERS. Continuing on the current path, by 2031 nonhazardous duty rates are projected to reach more than 25 percent, and hazardous duty rates 55 percent. The contribution rates for cities are not affordable or sustainable without significant cuts in the workforce and employee compensation.

KLC proposed that the unfunded liability in the KRS health insurance trust could be reduced by changing the health insurance plans offered to active state employees.

Bonding the unfunded liability deserves further examination and is one of the few options available to provide short-term rate relief to cities. If relief cannot be provided by other means, the KLC board is open to increasing the employee contribution rate for employees not yet vested and asking employees to contribute more in order to earn future benefits. KLC does not advocate reducing pension benefits already earned by active employees under the current system.

3KT (Kentucky School Boards Association, Kentucky Association of School Superintendents, and Kentucky Association of School Administrators) was represented by the Chief Executive Officer, Ohio Valley Educational Cooperative; and the Director of Governmental Relations, Kentucky School Boards Association.

The 3KT organization is a strong supporter of the nearly 50,000 classified school employees who transport children to and from school, provide them with nutritious meals, ensure cleanliness and safety of the facilities, and assist teachers in all phases of instruction. Without them, the teaching and learning experience during the school day could not be successful.

Classified employees are eligible to participate in CERS if they work 80 hours per month. Many work 187 days each year and receive a full year's credit, as do certified employees. Retirement benefits are a primary tool for recruiting the best classified employees, whose average salary is $13,998. New fiscal constraints have forced school districts to reduce costs and personnel—both certified and classified. Districts are facing unprecedented financial stresses with the loss of millions in federal and state dollars. This is compounded by rising overhead costs, including retirement contributions. In FY 2003, the employer contribution rate for CERS was 7.34 percent; in FY 2012, it rose to 18.96 percent.

3KT stated that COLAs should be suspended until they can be provided as a prefunded benefit. 3KT member organizations have not been supportive of 100 percent defined contribution plans but recognize that the Commonwealth must look at various options to ensure the long-term financial stability of CERS. They also encouraged bonding as a possible solution.

Kentucky Professional Firefighters Association (KPFA) was represented by its President and by the Pension Resources Director, International Association of Professional Firefighters. As of June 30, 2011, KERS-hazardous was funded at 70.8 percent and CERS-hazardous at 62.2 percent. The system funding ratio is improving, but there is a significant unfunded liability. As recently as 2002, KERS-hazardous was overfunded at 116 percent and CERS-hazardous at 111.9 percent. The system is recovering from the worst economic downturn since the Great Depression. Investment losses have figured into the current employer contribution rate, exacerbated by the fact that when there were excess earnings, contributions to the system were reduced, which lowered the available cushion.

They discussed KPFA's recommendations to conduct an experience valuation—which would provide a clearer picture of the unfunded liability—and to consider pension obligation bonds as a viable option for retiring the debt. The majority of firefighters in Kentucky are not eligible for Social Security benefits. Their pensions will be the principal source of their retirement incomes. They stated that 401(k) plans will not provide a meaningful retirement benefit, regardless of contribution level. Investments are more expensive than under a defined benefit plan. Accumulating sufficient money that will be sustained over time is a big problem with 401(k) plans. Kentucky's current defined benefit retirement system is providing significant benefits to the taxpayer with, according to KRS, $3 billion yearly going into the economy. In KERS, 80 percent of money paid out comes from investment return (68 percent) and employee contributions (12 percent).

Kentucky Association of Transportation Engineers (KATE)/Kentucky Association of Transportation Employees (KTEA) were represented by a Transportation Cabinet (DOT) employee and President of KTEA; and a member and former president of KATE. KTEA was established in 1950; KATE represents current and retired Transportation Cabinet engineers and was established in 1972. Neither organization is associated with a union.

KATE and KTEA were concerned about both current and future DOT employees. Salaries, even in good economic times, have been losing ground. A recent study of compensation, retirement, and benefits of public employees and comparable private employees in Kentucky shows that state employees in most cases earn 14 percent less than their private sector counterparts. In many rural districts it is difficult to attract and retain qualified staff.

The transportation organizations stated that the state employee health plan is not a "Cadillac" plan. "Double dipping" does not harm the retirement system. The state benefits from reemploying persons with valuable experience at lower salaries. KATE does not support a pure defined contribution system. Employees are not professional money managers, and such a portable system may negatively impact employee retention. Without a defined benefit retirement system, state government would lose its most valuable recruitment tool. If a defined contribution system is pursued, KATE recommended that there should be a minimum mandatory employee contribution, a minimum employer match, a guaranteed 5 percent minimum return on all contributions, and professional management.

KATE recommended continued oversight of KRS investments and recommended that half of the FY 2012 Commonwealth budget surplus should be invested in COLAs for current workers, with the remaining half going into the pension system. They also recommended that the legislature approve a bond issue to pay in full the present value of the past underfunded actuarially required contribution (ARC), including investment return. KATE suggested that the legislature consider a buyout incentive for individuals with inactive accounts. Offering the opportunity to cash out the total employee contribution plus a return of 5 percent on that money—coupled with the potential for KERS to lose a future health insurance obligation—could be a winning situation for both the employee and the system and could have a dramatic impact on the future unfunded liability.

American Federation of State, County and Municipal Employees (AFSCME) sent the Executive Director of AFSCME Council 62, and Vice President of AFSCME International; and a labor economist, AFSCME International Research Department. Council 62 includes members in Kentucky such as classified school employees, and city, county, and state employees.

AFSCME recommended that state law be changed to require the full ARC to be paid each year; if a phase-in is necessary, it should be shorter than 12 years. The ARC should include the intention to pay COLAs. AFSCME recommended bonding, cutting tax expenditures such as $157 million for exclusion of dividends from taxable income and $782.5 million to exclude capital gains from income from estate property transfers.

For CERS, it is recommended that the funding calculation include a COLA assumption and require a minimum employer contribution instead of a specific contribution as a percentage of pay. AFSCME also suggested that exit and reentry rules under CERS should be reviewed and suggested, if necessary, the implementation of a withdrawal liability for any employer trying to exit the plan.

AFSCME stated that moving new hires to a cash balance or 401(k)-type plan would not improve plan funding status, would rob the plans of new hire contributions, and would worsen cash flows.

The Kentucky Public Retirees' (KPR) President and its Vice President and liaison to Kentucky Retirement Systems spoke on behalf of their organization. KPR is a nonprofit organization of KERS, CERS, and SPRS retirees with the goal of protecting the benefits of retirees and assuring the stability and solvency of KRS.

KPR recommended that there be an increase of employer funding to the system; that KRS maximize investment earnings; that bonding be considered; that no enhancement to retirement benefits be made in the future unless prefunded through the budget process; and that loopholes should be closed that permit employees/retirees to change positions or be rehired in order to amass excessive pensions.

The Kentucky Education Association (KEA) Assistant Executive Director and a KEA member and career classified school employee participating in CERS testified on behalf of their organization. Thousands of bus drivers, food service workers, administrative assistants, instructional aides, and other support professionals rely on KEA to protect their interests on important legislative issues.

CERS participants represented by KEA are education support professionals (ESPs) employed in Kentucky schools. They and their employers regularly contribute to CERS in the amount required by law. In that system neither the employees nor employer has the option to forgo or decrease contributions in favor of other preferred expenditures.

As a result, in many cases ESPs' wages remain artificially low throughout their entire career because the employer contributions are so high. They stated that ESP members of KEA are not pension experts and therefore would not offer a specific solution to the unfunded liability problem. KEA encouraged the task force to consider all reasonable measured options that fairly, though not necessarily equally, distribute the burden of solution among all the stakeholders.

A retired citizen who is a member of the Northern Kentucky Tea Party was critical of 2005 retirement legislation, House Bill 299, and how its passage has enhanced legislative pensions. He stated that House Bill 299 should be repealed and that the repeal should be done retroactively. He suggested adopting a 401(k) or cash balance plan; hiring an independent panel to implement reform; eliminating free health insurance coverage after 20 years of service for legislators and their families; and ending free family health insurance coverage for hazardous-duty retirees.

The Bluegrass Institute's President and a local publisher offered several recommendations: end the practice of double and triple dipping for all government workers; move to a 401(k)-type system where workers will contribute more to their retirement; re-form the KRS board to include more members with financial expertise and remove the boards' dominance by beneficiaries; end the reciprocity provision for lawmakers; and make public pension information transparent.

Testimony/Interested Groups included the Mayor of Louisville Metro Government; the Kenton County Judge/Executive; the Campbell County Judge/Executive; and the Warren County Judge/Executive.

The speakers offered the following recommendations: continue suspension of the COLA until it can be funded; explore options such as cash balance and stacked hybrid plans; offer separate solutions and board governance for CERS and KERS; consider requiring employees to pay more toward their retirement; and reduce the state tax code exemptions on pension earnings. They stated that they have concerns about bonding as a solution for the unfunded liability. This option should be further evaluated, coupled with possible adoption of a statutory definition of full funding as 80 to 85 percent of true actuarial cost.

The TIAA-CREF Retirement Plan Presentation was made by the TIAA-CREF Senior Vice President for the Midwest Region, and head of National Government and Religious Markets. TIAA-CREF is a $500 billion nonprofit organization dedicated to government education and research in broad or nonprofit fields. Core defined contribution (DC) retirement plans with TIAA-CREF have been in place with the University of Kentucky since 1964, the University of Louisville since 1955, Northern Kentucky University since 1970, and the community colleges since 1998. The primary focus of these plans is retirement income, and they have performed very well for both the employee and employer. TIAA-CREF was recently hired by the state of Rhode Island to manage the DC part of its new hybrid retirement system.

The speaker described the features of hybrid defined benefit (DB) and core DC plans and explained that both plan structures help provide more predictable costs and outcomes. The objective of a risk-managed DC plan is to provide employees with the means to build sufficient savings to provide income replacement in retirement that will maintain their standard of living. Participation in the plan should be mandatory, with low age restrictions or none at all. The investment structure should consist of a limited low-cost investment menu with a maximum of 15 to 20 options preselected by the employer that include asset allocation vehicles such as target date or life cycle funds. Individual investment advice should be available at no cost to the participant. Annuities or other lifetime income options should be part of the distribution of assets. Hybrid DB/DC and core DC plan structures recognize the mobility of the modern workforce without penalizing the individual.

Pew Center on the States/Laura and John Arnold Foundation representatives responded to the recommendations given by the various groups and organizations.

They offered the task force some guiding principles:

1. The state should commit to comprehensive reform that will not require policymakers to revisit the issue in 5 to 15 years;
2. Changes should honor benefits that have already been accrued;
3. Comprehensive reform must accomplish three goals:
    - Responsibly pay down the unfunded liability over a reasonable period without unduly affecting either government services or the economic viability of the state;
    - Create a retirement system that is affordable, sustainable, and secure and that does not allow missed payments or unforeseen cost increases to create future funding crises; and
    - Not jeopardize the ability of the state to recruit and retain a talented public sector workforce.

Pew and LJAF Recommendations/Three Potential Reform Packages

Package 1:

- Increase contribution rates over 4 years and make full actuarial contributions for every plan by FY 2017;
- Reset the amortization period to pay off the unfunded liability by 2044;
- Issue $780 million in bonds to help fund the KERS-nonhazardous plan;
- Increase employee contributions by 2 percent for those hired before 2008 and 1 percent for those hired after 2008;
- Reduce the $41,110 tax exclusion to $25,000 and tax benefits earned before 1998;
- Eliminate automatic COLAs;
- Implement policy changes regarding double dipping, spiking, and governance.

Implementing this package would reduce the present value of future employer contributions by $5.26 billion, reduce total employer costs by $8.8 billion, and keep the maximum contribution rate for the KERS-nonhazardous plan at 21 percent of payroll instead of 41 percent. In the short term, employer contributions in 2015 would be $71 million less. Pew and LJAF believe this first package would present the most savings and most broadly share costs. The tax changes would be the most significant feature.

Package 2:
This package is similar to the first, with two key differences: the amortization schedule is not reset, and the ramp-up to full funding of the ARC occurs over 6 years rather than 4. It would reduce the present value of employer contributions by $5.17 billion and reduce total employer costs by $10.7 billion. This package has a greater reduction in employer costs because the amortization schedule does not change. The maximum contribution rate for the KERS-nonhazardous plan would be 23 percent of pay, and employer contributions in 2015 would be reduced by $17 million.

Package 3:
This package does not include bonding or tax benefits earned before 1998. To compensate, it requires Kentucky to immediately begin paying the full ARC and eliminates the tax exclusion for retirement income. It resets the amortization period to 30 years; changes to employee contributions, COLAs, double dipping, and governance are the same as in the other two packages. The projected reduction in the present value of employer contributions is $4.3 billion. Total employer costs would be reduced by $6.7 billion. The maximum employer contribution rate for the KERS-nonhazardous plan would go from 41 percent of pay to 25 percent of pay. In the short term, contributions in 2015 would drop by $14 million.

Recommendations Adopted by the Task Force

The following recommendations were adopted as indicated for KERS, CERS, and SPRS:

- Begin paying the full actuarially required contribution beginning in FY 2014-2015 for KERS and SPRS;
- Repeal cost-of-living adjustment provisions;
- Reset the amortization period to 30 years for KERS, CERS, and SPRS;
- Reemployment after retirement option: Extend required break in employment to 2 years for retirees who are reemployed on or after July 1, 2013, except require only a 1-year break for full-time retired hazardous employees who are returning to full-time hazardous employment;
- Pension spiking: Require employers to pay any additional actuarial costs for salary increases greater than 10 percent during the last 5 years of employment;
- Transparency: Require KRS to establish a web page(s) with information that is easily available and understood by the public regarding its financial and actuarial condition;
- Increase KRS Board membership to 11 (currently 9 members): five elected (two from KERS, two from CERS, one from SPRS); five appointed by the Governor (two must have 10 years of "investment experience" as defined by statute and cannot be participating or retired from KERS, CERS, or SPRS); one appointed from a list of three recommended by the Kentucky League of Cities; one

appointed from a list of three recommended by the Kentucky Association of Counties; one appointed from a list of three recommended by the Kentucky School Boards Association); and the Secretary of State Personnel Cabinet; and

- New plan: Effective July 1, 2013, new hires in KERS, CERS, and SPRS would participate under a new hybrid cash balance plan.

The following recommendations were adopted for the Judicial Form Retirement System (JFRS):

- Repeal COLA provisions; and
- New hires: Close the Legislators' Retirement Plan and the Judicial Retirement Plan administered by JFRS to new participants. Effective July 1, 2013, new legislators and judges would participate in KERS under a new hybrid cash balance plan.

Report of the 2012
Task Force on Middle School Interscholastic Athletics

Sen. Mike Wilson, Co-Chair
Rep. Carl Rollins, II, Co-Chair

Sen. Joe Bowen
Rep. Tom Burch
Rep. Keith Hall
Rep. Joni Jenkins
Kevin Brown
Adam Lantman
Barry Lee
Elizabeth Miles
Greg E. Mitchell
Rita Muratalla
Wilson Sears
Dan Seum, Jr.
Julian Tackett
Dan Volpe
Jerry Young

LRC Staff: Janet Stevens, Greg Hager, Bryce Amburgey, and Stella Mountain

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Task Force on Middle School Interscholastic Athletics

Jurisdiction: The Task Force on Interscholastic Athletics at the Middle School Level was established by the Legislative Research Commission in July 2012 and charged with examining current practices related to middle school athletics in public schools. The task force was required to report its findings to the Legislative Research Commission, the Interim Joint Committee on Education, and the Interim Joint Committee on Health and Welfare by December 7, 2012, and to make recommendations to improve interscholastic athletics at the middle school level.

Task Force Activity

The task force met five times during the 2012 Interim.

Major Issues Considered

The task force focused on five issue areas related to middle school interscholastic athletics: unique health concerns of middle school athletes; athletic risk management; student accident insurance and industry changes; opportunities for student athletes to improve performance; and current management and oversight of middle school athletic programs. The task force heard testimony from speakers representing the medical community, insurance industry, the Kentucky School Boards Association, the Kentucky Middle School Football Association, the Kentucky High School Athletics Association, the Illinois Elementary School Association, and the Tennessee Middle School Athletic Association.

Recommendations

The task force adopted policy recommendations to consider legislative action to clarify the responsibility of high school, middle school, and elementary school interscholastic athletics. The members also recommended that the Kentucky Board of Education should

- resume its study of middle school interscholastic athletics to determine how middle school athletics should be managed;
- establish a permanent workgroup to provide an opportunity for interested parties to participate and provide input on middle school interscholastic activities;
- require that any nonprofit organizations sanctioned by the board to manage middle school athletics provide documentation of financial accountability, Title IX compliance, and completion of mandatory training by all coaches, including paraprofessionals and volunteer coaches;
- consider how to require coordinators of any athletic event conducted by and between school-based teams through a nonprofit or non-sanctioned KHSAA event to report injuries, meet insurance requirements, determine eligibility of participation, and monitor conduct of athletes and coaches;

- require all middle school athletic teams to follow existing KHSAA rules related to physical examinations, medical coverage, heat index, and concussions;
- work with interested parties to determine limitations on the number of allowable contests during the school year in each middle school sport;
- explore options to ensure that student athletes, coaches, schools, and school boards are provided adequate accident and injury insurance coverage during an athletic event or while athletes are being transported by a school vehicle to and from an athletic event;
- require and track injury and incident reporting for all interscholastic sports activities;
- consider adopting statewide eligibility rules to include age restrictions for all athletes and restrictions for participation on high school teams by athletes enrolled below the 9th grade; and
- require and ensure that all middle school coaches, including paraprofessionals and volunteers, meet existing certification requirements, pass a criminal background check, and complete all training required by the KHSAA for high school coaches.

Report of the 2012 Task Force on Student Access to Technology

Sen. Katie Stine, Co-Chair
Rep. Carl Rollins, Co-Chair

Sen. Jared Carpenter	Rep. John "Bam" Carney
Sen. David Givens	Rep. Derrick Graham
Sen. Dennis Parrett	Rep. Ruth Ann Palumbo
Sen. Mike Wilson	Rep. Rick Rand

LRC Staff: Jo Carole Ellis, Sarah Kidder, Perry Papka, and Ashlee McDonald

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Task Force on Student Access to Technology

Jurisdiction: The Task Force on Student Access to Technology was established by the Legislative Research Commission in June 2012 in accordance with Senate Bill 95, passed during the 2012 Regular Session. The 10-member task force focused on two subjects: providing 5th- and 6th-grade students with access to computing devices for school and home use, and the statewide availability of broadband technology necessary for using the devices. The task force was directed to report its findings to the Legislative Research Commission by December 1, 2012.

Task Force Activity

The task force held five meetings during the 2012 Interim.

Major Issues Considered

The task force examined what Kentucky schools are already doing in the areas of mobile computing devices, national trends, digital curriculum, and access to broadband. Testimony was provided by the Kentucky Department of Education; the Office of Broadband Outreach and Development; Digital Learning Now!, a national nonprofit digital learning organization; and the Bullitt County, Fort Thomas Independent, Hardin County, Owensboro Independent, and Owsley County school districts.

Recommendations

The task force adopted policy recommendations to consider legislative action related to telecom laws and technology funding and encouraged the incorporation of more digital learning techniques and opportunities in educator preparation programs. The members also recommended that the Kentucky Department of Education undertake efforts to bolster and support mobile computing device programs in schools including developing best practice policies and procedures; coordinating training and support; facilitating sharing of information on programs, funding sources, and digital curriculum; and negotiating vendor agreements to assist schools in purchasing technology for mobile computing device programs.

Report of the 2012 Unified Juvenile Code Task Force

Sen. Katie Stine, Co-Chair
Rep. John Tilley, Co-Chair

Harry L. Berry
Hasan Davis
Teresa James
Lisa P. Jones
Robert D. Neace
Mary C. Noble
Pamela Priddy
Peter L. Schuler
Steve Trimble

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Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Unified Juvenile Code Task Force

Jurisdiction: Review and research the juvenile justice system and make recommendations for revisions to the Unified Juvenile Code and related statutes.

Task Force Activity

During the 2012 Regular Session, the General Assembly created the Unified Juvenile Code Task Force to review and research the juvenile justice system, including the feasibility of establishing an age of criminal responsibility and to draft recommended statutory changes regarding the treatment of status offenders, use of validated risk and needs assessments, alternatives to incarceration, use of community resources, sharing of information, coordination and provision of services to children, and reinvestment of savings from the reduction of out-of-home placement of public offenders and status offenders into community-based treatment programs. The Unified Juvenile Code Task Force has held five meetings.

Problems Relating to Jailing of Status Offenders in Kentucky

District judges, the Commissioner of the Department for Community Based Services, the Commissioner of the Department of Juvenile Justice, youth advocates, and representatives from the Department of Public Advocacy urged curtailing the detention of status offenders because detention is the least effective and most expensive means of dealing with them. A status offense is one that can be committed only by a minor and would not be an offense if committed by an adult, such as truancy and being beyond parental or school control. Detention increases the risk of poor education and unemployment while greatly increasing the chance of future incarceration both as a youth and as an adult, without addressing the problems the child is facing that may cause the inappropriate behavior. There were suggestions to limit or prohibit detention while expanding treatment programs and the inclusion of the family in treatment, as placing status offenders in the court system creates an adversarial environment that does not address the needs of the juvenile or family. It was also suggested that consideration be given to eliminating the concept of status offenses and expanding and reclassifying these issues into families in need of services to be handled through social services. A policy analyst from the Texas Public Policy Institute testified that a majority of states have implemented the "child in need of services" system in lieu of status offenses and that almost half of the states prohibit the secure detention of status offenders. The Director of National Initiatives, Council of State Governments, testified that Kentucky, Texas, and Washington account for 60 percent of all status offenders securely detained nationwide and that Kentucky spends millions of dollars securely detaining many status offenders who pose no threat to public safety.

Family Court and District judges and representatives from the Administrative Office of the Courts discussed the court system's handling of status offenders through alternative programs operated by individual courts and diversion programs operated by court-designated workers.

School officials and county attorneys testified that incarceration should remain an available tool for the courts, sometimes necessary when children are acting beyond control.

Assessments

The Executive Officer of Family and Juvenile Services of the Administrative Office of the Courts, the Commissioner of the Department for Community Based Services, the Commissioner of the Department of Juvenile Justice, the Executive Director of Necco-Kentucky, and the chief juvenile defender from the Louisville-Jefferson County Public Defenders testified on risk and needs assessments. Court-designated workers, the Department for Community Based Services, and the Department of Juvenile Justice use some form of risk and needs assessment when they interact with a juvenile but each uses different assessment tools. To be of value, assessment tools must be evidence based, juvenile specific, and administered by a person qualified to administer the assessment.

A validated risk and needs assessment should be approved, shared, and used by all components of the juvenile justice system to provide a more complete understanding of the problems faced by the juvenile and family, thereby permitting a more appropriate response of services best suited to the juvenile and family unit. There was additional discussion related to detention risk assessments and the tendency for judicial override to avoid public criticism. Releasing an alleged offender carries a risk for the decision maker, yet the decision to securely detain a child when validated tools indicate otherwise may create more harm than the "safe" decision to detain.

Information Sharing

Judges, prosecutors, defense attorneys, representatives from the Department for Community Based Services and the Department of Juvenile Justice, representatives from education and private sector youth treatment programs testified on the value of having complete information on the children with whom they are dealing. Representatives from the Kentucky School Boards Association (KSBA) testified that the federal Family Educational Rights and Privacy Act (FERPA) prohibits schools from sharing information. FERPA provides an exception that would permit the sharing of information with the juvenile justice system if a state adopts a specific enabling statute, which is a KSBA recommendation. The commissioner of the Department for Community Based Services addressed the restraints imposed by the federal Health Insurance Portability and Privacy Act (HIPAA) but is uncertain whether HIPAA contains a similar exception available through enactment of a state enabling statute.

Reinvestment and Community-Based Programming

Representatives from the Department of Behavioral Health, the Department of Juvenile Justice, and the Georgetown University Public Policy Institute testified about the need for financial mapping, a process of identifying public funds expended during a particular time frame and addressing a certain population or issue. They testified that financial mapping will identify current spending and utilization patterns across agencies and when coupled with evidence based treatment modalities may provide guidance for the realignment of funding streams and financing of appropriate services. Judges and a representative from the Children's Law Center testified that funds saved through a reduction in secure detention and other ineffective programs should be designated for the development of community-based, family-focused, and child-oriented service systems, including juvenile mental health services. There should be increased coordination of services among agencies, and the focus should be on what families need in order to be successful.

Savings realized from a reduction in the use of secure detention might be used to develop community-based emergency shelter programs. A representative from the Texas Public Policy Institute testified that almost every state is looking for better outcomes and increased cost-effectiveness from juvenile justice systems. Reforms under way in Colorado, Georgia, Illinois, New York, Ohio, Texas, and Virginia are producing savings and reducing delinquency rates. The savings realized through reduced detention and efficient use of evidence-based programming may be used to provide financial incentives to encourage counties to develop community-based programming.

Age of Criminal Responsibility

Judges, representatives from the Administrative Office of Courts, representatives from the Department of Public Advocacy, and mental health professionals testified on the subject of criminal responsibility and the age at which a child be held accountable for either criminal or status conduct. No consensus was achieved on this subject with minimum ages of 10 to 12 years discussed. A District judge testified that 119 public offense complaints were filed against children 10 years of age or younger during the summer of 2012.

Future Task Force Action: Recommendations and Findings

The Unified Juvenile Code Task Force is scheduled to meet in December 2012 to take final action on recommendations. The task force will make its final recommendations to the Interim Joint Committee on Judiciary during a meeting of that committee following the organizational meeting of the 2013 General Assembly, and legislation based on those recommendations will then be introduced in the 2013 Regular Session.

Report of the 2012 Administrative Regulation Review Subcommittee

Sen. Joe Bowen, Co-Chair
Rep. Johnny Bell, Co-Chair

Sen. David Givens
Sen. Alice Kerr
Sen. Joey Pendleton

Rep. Robert R. Damron
Rep. Danny Ford
Rep. Jimmie Lee

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

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Administrative Regulation Review Subcommittee

Jurisdiction: Review and comment upon administrative regulations submitted to it by the Legislative Research Commission; make nonbinding determinations concerning the statutory authority to promulgate administrative regulations filed with the Legislative Research Commission; review existing administrative regulations; recommend the amendment, repeal, or enactment of statutes relating to administrative regulations; conduct a continuous study of the administrative regulations procedure and the needs of administrative bodies; study statutes relating to administrative hearings; make legislative recommendations.

Subcommittee Activity

KRS Chapter 13A establishes the subcommittee as a permanent subcommittee of the Legislative Research Commission (LRC). The subcommittee meets monthly and reviews approximately 30 administrative regulations each month. In addition to the review of proposed administrative regulations at each month's meeting, the subcommittee reviews issues relating to the intent and implementation of KRS Chapter 13A and issues relating to existing administrative regulations. Pursuant to KRS Chapter 13A, the subcommittee assists administrative bodies in the drafting of administrative regulations. After an administrative regulation has been reviewed by the subcommittee, it is assigned by LRC for a second review by the legislative subcommittee with jurisdiction over the subject matter.

From November 15, 2011, through November 15, 2012, executive branch agencies filed 55 emergency administrative regulations (an increase of 12 percent over the prior year) and 413 ordinary administrative regulations (a decrease of 17 percent from the prior year). Of the ordinary administrative regulations filed, 77 were new, 293 were amendments to existing administrative regulations, and 43 were amended after comments.

In accordance with KRS Chapter 13A, the Administrative Regulation Review Subcommittee reviewed all the ordinary administrative regulations that were not withdrawn or expired prior to the date of its monthly subcommittee meetings. Of those ordinary administrative regulations reviewed, one was found deficient, 221 were amended to conform with KRS Chapter 13A and other appropriate statutes, and 89 were approved as submitted by the agency. Additionally, 27 administrative regulations were withdrawn by the promulgating agencies. These totals do not include 160 administrative regulations scheduled for review during the subcommittee's December 2012 or January 2013 meetings.

The subcommittee staff and the regulations compiler conducted formal and informal training sessions with executive and judicial branch agencies as requested by the agencies. The training sessions focused on the administrative regulations process and the requirements for drafting and formatting administrative regulations. Additionally, subcommittee staff presented a session on administrative regulations as part of the Continuing Legal Education programs offered by the Legislative Research Commission in June.

In July, LRC published the Kentucky Administrative Regulations Service, which contains all administrative regulations in effect as of June 15, 2012. For the first time, this year the Kentucky Administrative Regulations Service was made available both in its traditional bound 12-volume set and in a new 1-CD format.

Report of the 2012 Capital Planning Advisory Board

Sen. Jack Westwood, Co-Chair
Rep. Melvin Henley, Co-Chair

Sen. Paul Hornback	William H. Hintze, Jr.
Rep. Ron Crimm	Sherron Jackson
Charles Byers	Mary Lassiter
Laurie Dudgeon	James W. Link
Ben S. Fletcher III	Mark R. Overstreet
Carole Henderson	Carol Palmore
John Hicks	Katie Shepherd

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

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Capital Planning Advisory Board

Jurisdiction: The 1990 General Assembly established the Capital Planning Advisory Board (board) of the Kentucky General Assembly, composed of members representing the executive, judicial, and legislative branches of government. Pursuant to KRS Chapter 7A.120, the board is charged with creating a 6-year comprehensive statewide capital improvements plan encompassing state agencies and universities. The plan is to be submitted to the heads of the three branches of government by November 1 of each odd-numbered year. This schedule enables the comprehensive capital plan to be used in the subsequent budget process and legislative session.

Board Activity

The board met three times in 2012. Meetings were held in Frankfort, Shelbyville, and Lexington.

2012-2014 Budget Reports

Members received a staff update on the 2012-2014 Executive and Judicial Branch Budgets. The executive budget calls for the authorization of state funds totaling approximately $182.8 million from General Fund supported bonds and $11.1 million from state cash (Investment Income and Capital Construction Surplus). The budget also includes the authorization of $43.5 million in agency bond authority for two university-related capital projects: Eastern Kentucky University Refinance Guaranteed Energy Savings Performance Contract, $27 million; and Western Kentucky University Renovate Downing University Center Phase V, $16.5 million.

House Bill 269, the Judicial Branch budget, contained authorization for one capital project: Renovation of Office Space, 1001 Vandalay Drive. This $6 million restricted-fund project is necessitated by the Administrative Office of the Courts' (AOC) lease-purchase of new office space.

Presentation—Kentucky State Police Training Academy Project

Kentucky State Police (KSP) staff testified about the new training academy in Frankfort. The Department of Corrections transferred ownership of the facility to KSP in July 2011. The property includes 362 acres of land and 10 buildings at 380 Coffee Tree Road. It had been used as a minimum-security prison, the Frankfort Career Development Center; the downward trend in the prison population and the passage of House Bill 463 by the 2011 General Assembly were factors in the decision to close the center.

The current budget includes a $2 million bond fund appropriation for the KSP Demolition and Construction of Training Academy Building project. The scope of work includes demolition of the administration building and construction of a new building with office and classroom space and a conference room. KSP estimates that an additional $4 million is needed to complete Phase I construction.

Court Facility Construction Program

The AOC Budget Director testified that the court facility construction program was created by the 2000 General Assembly to oversee the design, financing, and construction of court facility construction projects. AOC oversees the court projects, and local governments oversee financing and construction of the facilities.

Since 2000, the General Assembly has approved 55 new court facilities. Nine projects are in construction, and 46 are complete. A total of $712.3 million in bonds has been issued by cities to fund the projects, and the total debt service is $53 million. Court facilities were last authorized in the 2008-2010 budget for Allen, Bracken, Carlisle, Lawrence, and Morgan counties.

Acquisition and Renovation of the Vandalay Drive Property

The AOC Budget Director testified that on January 30, 2012, AOC had entered into a lease-to-purchase agreement to acquire the vacant Home Depot building on Vandalay Drive in Frankfort. The sale price was $5.9 million, and payments were structured as a series of quarterly installments of $211,250 ($845,000 annually) over a 7-year period. AOC plans to pay off the lease in less than 7 years to reduce the purchase price. The project will include conversion of a 62,000-square-foot area to office space. The renovations will be paid for with earmarked one-time savings from the facilities budget and criminal record report revenue.

Bluegrass Community and Technical College (BCTC) Presentation

The President of BCTC said the Classroom Building - Lexington Community College - Planning and Design project was authorized in the 2000-2002 with $1 million in restricted funds. Subsequent budget appropriations included $35,741,000 in bond funds and restricted fund authorizations totaling $17,800,000 for three related projects. No restricted funds for the related projects have been identified.

The project was transferred from Lexington Community College to the Kentucky Community and Technical System and was redesigned to be the first building on the Newtown Campus. The Newtown Campus is being constructed on the site of Eastern State Hospital and was made possible through a land swap between the hospital and the University of Kentucky (UK). The hospital will relocate to the UK Coldstream Research Campus. BCTC will vacate its existing facilities on the UK Cooper Drive Campus, allowing the university to expand its facilities. BCTC and its community partners prepared an analysis 2 years ago as to which buildings should remain and which buildings should be demolished.

The scope of work for Phase I includes construction of an approximately 90,000-square-foot facility for laboratory, auxiliary spaces, and general education classrooms. Additional work will include renovation of the administration and laundry buildings, demolition of the remaining structures deemed nonfunctional, and cemetery improvements. The new facility is scheduled to be substantially complete by February 2013, and classes are scheduled to begin in August 2013.

The funding request of $45 million for half of Phase Two was not included in the executive budget. Phase Two will include construction of three buildings at an estimated cost of $100 million. The buildings will create new facilities for nursing and allied health, science, and mathematics. Additional renovations are planned to the administration building's fourth-floor ballroom to provide space for community activities.

Third-Party Financing for Postsecondary Construction Projects

Staff from Murray State University and the University of Kentucky testified about capital projects financed with third-party financing.

The Murray State University Vice President of Facilities and Administrative Services and the Chief Facilities Officer explained that third-party financing of capital projects will allow for a faster rate of construction and reduced debt service for the university.

The university has executed a memorandum of agreement with the McCracken County Fiscal Court, the City of Paducah, and the Greater Paducah Economic Development Council, to complete the Construct Paducah Regional Campus project ($17,646). Under the MOA, the university will design, construct, and assume responsibility for operation of the building and grounds, and the county will issue $10 million of general obligation bonds to finance the project. The projected annual debt service is $790,000, of which the city and the county will pay $500,000, and the university will pay $290,000.

Upon completion of the project, the new facility will provide 50,000 square feet of classroom space, administrative office space, and computer laboratories. The anticipated completion date is December 2013.

The UK Vice President for Facilities Management and the Vice President for Financial Operations discussed the university's plans to construct new student housing with third-party financing. UK has entered into a long-term ground lease with Education Realty Trust (EdR) to construct, expand, and potentially manage student housing. The lease is for 2.167 acres located at the intersection of Huguelet Drive and University Drive.

The first project under the lease arrangement, Lease-Purchase New Housing, was authorized in the 2010-2012 executive budget ($52.5 million). The project includes construction of two residence hall facilities on Haggin Field near the William T. Young

Library. The buildings comprise approximately 313,000 gross square feet and will contain classrooms, faculty offices, and 601 undergraduate beds. The total cost is estimated at $25.8 million, and construction should be complete by fall 2013.

EdR will provide 100 percent equity investment in UK's student housing. No state funding is involved in the project. Under the terms of the management agreement, EdR will receive a 4 percent fee based on gross revenues from the annual revenue from the premises (student rent). The fee will be reduced to 2 percent upon execution of the contract to construct 2,500 beds or to manage student housing. EdR will also receive a minimum 9 percent internal rate of return. Beginning at the rent commencement date and continuing throughout the term of the lease, EdR will pay UK base rent of 10 percent of EdR's total annual revenue from the premises. The base rent will increase by 2 points to 12 percent upon execution of the contract for EdR to construct at least 2,500 beds or to manage student housing. The university will receive 25 percent of net income in each year in which EdR achieves a 9 percent internal rate of return. The lease has an initial term of 50 years and contains the option to renew for successive periods of 10 and 15 years.

University staff stated that the cost of capital construction is based on timing. EdR can construct the capital project in a more timely and efficient manner than the university.

Report of the 2012
Capital Projects and Bond Oversight Committee

Sen. Robert Leeper, Co-Chair
Rep. Jim Glenn, Co-Chair

Sen. Tom Buford	Rep. Robert Damron
Sen. Jared Carpenter	Rep. Steven Rudy
Sen. Julian Carroll	Rep. Jim Wayne

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

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Capital Projects and Bond Oversight Committee

Jurisdiction: The committee is a permanent subcommittee of the Legislative Research Commission and is charged with overseeing the expenditure of funds for state capital projects; the allotment of funds from the Emergency Repair, Maintenance, and Replacement Account, the Capital Construction and Equipment Purchase Contingency Account, and the Statewide Deferred Maintenance Fund; the state's acquisition of capital assets, including the lease of real property; the issuance of bonds by the Commonwealth and related statutory entities; and the issuance of bonds by or on behalf of local school districts.

Committee Activity

As a statutory committee, the Capital Projects and Bond Oversight Committee meets monthly. This report covers committee activity between November 1, 2011, and October 31, 2012. The committee met 12 times in Frankfort in the Capitol Annex.

Review of Unbudgeted Capital Projects

The committee approved 13 unbudgeted capital projects pursuant to KRS 45.760(7), which permits a capital construction project to be authorized even though it is not listed in an enacted budget if at least 50 percent of the costs are from private or federal sources, and if the project is presented to the committee for review.

Unbudgeted Projects Approved

Agency	Title of Project	Scope/Fund Source
Department for Workforce Investment	Unemployment Insurance System Integrity Enhancement	Federal $1,550,000
Department of Parks	Cabin Creek Covered Bridge, repair damage	Federal and restricted $1,244,000
University of Kentucky	Renovate/upgrade softball complex	Private $7,500,000
University of Kentucky	UK/Nicholasville Road flood mitigation	Federal and private $8,015,463
Kentucky State University	Renovate Atwood Building	Federal $2,000,000
University of Louisville	Schnellenberger addition/upgrade	Private $7,500,000
University of Kentucky	Renovate/expand Gatton Building	Private $65,000,000
Transportation Cabinet	Lake Barkley State Park Airport runway repair	Federal and restricted $1,000,000
Transportation Cabinet	Capital City Airport runway improvements	Federal and restricted $2,933,000

Agency	Title of Project	Scope/Fund Source
Education and Workforce Cabinet	KY Statewide Longitudinal Database Phase II	Federal $2,810,000
University of Kentucky	Renovate/expand soccer facilities	Private $7,000,000
University of Kentucky	Construct Farmhouse fraternity	Private $3,600,000
University of Louisville	Health sciences center utilities hazard mitigation	Federal and restricted $1,100,000

The committee approved three scope increases for unbudgeted capital projects during the period, which are summarized in the table below. These scope increases were required because of unforeseen issues that arose during project design or construction.

Scope Increases for Unbudgeted Projects Approved

Agency	Project	Increase	Revised Project Scope
University of Kentucky	Renovate Shively Sports Center	$142,500	$1,092,500
Department of Education	Expand statewide longitudinal data system	$300,000	$3,469,400
University of Kentucky	Renovate/upgrade softball complex	$2,200,000	$7,500,000

Review of Budgeted Capital Projects

Requests for Scope Increases. The committee considered executive agency requests for scope increases to address increased costs of construction materials or expand the scope of projects. The committee approved six agency requests to increase the scope of authorized capital projects, using private, federal, or restricted (agency) funds. Pursuant to KRS 45.760(6), to be eligible for interim approval, any increase in excess of 15 percent of a project's authorized scope must be funded by federal or private funds.

Scope Increases for Budgeted Projects Approved

Agency	Project Title	Increase	New Scope
Department of Military Affairs	Expand emergency operations center	$5,800,000	$9,800,000
Murray State University	Construct multipurpose practice facility	$600,000	$4,600,000
Morehead State University	Renovate East Mignon Hall	$430,000	$5,378,000
Energy and Environment Cabinet	Paper shredder	$29,000	$334,000

Agency	Project Title	Increase	New Scope
Morehead State University	Renovate West Mignon Hall	$412,000	$5,360,000
Department of Military Affairs	Construct CERF-P facility	$78,300	$828,300

General Oversight and Review Topics

Allocation From Various Pool Programs. Allocations authorized by the budget bill were reported for capital projects costing more than $600,000 and equipment costing more than $200,000.

Quarterly Status Reports. The committee received statutorily mandated status reports from the Finance and Administration Cabinet, the universities that manage their own capital construction programs (University of Kentucky, University of Louisville, Murray State University, Northern Kentucky University, and Western Kentucky University), the Administrative Office of the Courts, and the Commonwealth Office of Technology.

Energy Savings Performance Contracts (ESPC). The committee reviewed one ESPC. Under an ESPC, a contractor agrees to design, finance, and install energy conservation measures in state buildings and guarantees a level of energy savings. If the project does not generate the guaranteed energy savings in any given year, the contractor must reimburse the owner the amount of the shortfall. All ESPCs must be reviewed and approved by the Finance and Administration Cabinet's Office of Financial Management. The ESPC presented to the committee was for the Tourism, Arts, and Heritage Cabinet (Kentucky Department of Fish and Wildlife Resources). The total scope of the self-funded project was $204,903, with a projected savings of $231,531.

Review of Bond-Funded Loan/Grant Programs

Economic Development Bond (EDB) Projects. The committee reviewed and approved three grants from the EDB pool. This pool is capitalized through the issuance of General Fund-supported bonds and makes grants (forgivable loans) to local governments to leverage against private investments for economic development in the Commonwealth. In return for assistance, companies are required to make commitments regarding job creation and/or job maintenance.

Economic Development Bond Grants Approved

Grantee	Company/Project	Amount
City of Florence	Health Warehouse.com	$500,000
City of Winchester	Amazon	$250,000
City of Bowling Green	Graham Packaging	$250,000

The committee also received a report of EDB job creation and job maintenance requirements for previously approved projects from the Cabinet for Economic

Development. Of the 21 grants made in prior fiscal years, four projects withdrew from the program; one project is still in the process of executing an agreement; one project is in the process of having its agreement amended; one project did not have job and wage reporting requirements (Todd County Industrial Foundation—received final disbursement); and 14 projects have not yet reached a reporting date.

Kentucky Infrastructure Authority (KIA) Projects. The committee reviewed and approved various KIA loans and grants to local government entities for public infrastructure projects.

Fund A (Federally Assisted Wastewater Revolving Loan Fund). The committee approved 31 loans totaling $101,198,430.

Fund A Loans Approved

Borrower	County	Amount
City of Burkesville	Cumberland	$1,000,000
City of Harrodsburg	Mercer	$418,500
Grant County Sanitary Sewer District	Grant	$1,161,700
City of West Liberty	Morgan	$3,937,950
City of Hodgenville	Larue	$1,635,000
City of Jamestown	Russell	$2,500,000
Winchester Municipal Utilities	Clark	$1,000,000
City of Harrodsburg	Mercer	$706,000
Paducah-McCracken Joint Sewer Agency	McCracken	$8,000,000
Kenton County Sanitation District 1	Kenton	$851,857
Kenton County Sanitation District 1	Kenton	$959,000
Regional Water Resource Agency	Daviess	$5,790,500
City of Ashland	Boyd	$4,500,000
City of Murray	Calloway	$46,000,000
Regional Water Resource Agency	Daviess	$357,335
Regional Water Resource Agency	Daviess	$1,586,875
Lexington-Fayette Urban County Government	Fayette	$1,930,000
Grant County Sanitary Sewer District	Grant	$913,000
City of Flemingsburg	Fleming	$500,000
City of Russell Springs	Russell	$719,000
City of South Shore	Greenup	$3,006,000
City of Grayson	Carter	$785,000
City of Flatwoods	Greenup	$400,000
City of Oak Grove	Christian	$1,000,000
City of Barbourville	Knox	$5,621,270
City of Earlington	Hopkins	$825,000
City of Russell	Greenup	$970,000
City of Lawrenceburg	Anderson	$2,000,000
Southern Water and Sewer	Floyd	$1,094,143
City of Worthington	Greenup	$500,000

Borrower	County	Amount
City of Jenkins	Letcher	$500,000

Fund A Loan Increases. The committee approved eight Fund A loan increases totaling $4,103,612.

Fund A Loan Increases

Borrower	County	Amount
Oldham County Environmental Authority	Oldham	$193,000
Regional Water Resource Agency	Daviess	$1,785,500
Grant County Sanitary Sewer District	Grant	$133,178
City of Warsaw	Gallatin	$86,751
Oldham County Environmental Authority	Oldham	$446,174
Oldham County Environmental Authority	Oldham	$478,421
City of Hopkinsville f/b/o Hopkinsville Water Environment Authority	Hopkins	$710,000
Oldham County Environmental Authority	Oldham	$270,588

Fund B (Infrastructure Revolving Fund). The committee approved eight loans totaling $4,206,680.

Fund B Loans Approved

Borrower	County	Amount
City of Olive Hill	Carter	$505,000
Nebo Water District	Hopkins	$92,000
City of Flatwoods	Greenup	$643,500
East Pendleton Water District	Pendleton	$160,000
Marion County Water District	Marion	$548,180
Symsonia Water District	Graves	$300,000
City of Scottsville	Allen	$358,000
City of South Shore	Greenup	$1,600,000

The committee approved one Fund B loan increase, $150,000 for the City of Carrollton (Carroll County).

2020 Program (Sub-account of Fund B). The committee reviewed eight 2020 grants totaling $636,762.

Borrower	County	Amount
Garrard County Fiscal Court	Garrard	$52,500
Barkley Lake Water District	Trigg	$100,000
Bracken County Water District	Bracken	$100,000
City of Albany	Clinton	$120,000
City of Crab Orchard	Lincoln	$15,000
Mayfield Electric and Water Systems	Graves	$90,000

Borrower	County	Amount
Mount Sterling Water and Sewer	Montgomery	$60,000
City of Sebree	Webster	$69,262

Fund C (Governmental Agencies Program Loan Fund). The committee approved two Fund C loans, including one loan in the amount of $3,173,049 to MuniNet Fiber Agency in McCracken County and one in the amount of $600,000 to the City of Worthington in Greenup County. The committee also approved a Fund C loan assumption for the City of Paducah for the benefit of Paducah Water Works, which is assuming $40,000 of the Hendron Water District's outstanding debt as a result of the merger of the Hendron system into the Paducah system.

Fund F (Federally Assisted Drinking Water Revolving Loan Fund). The committee approved 14 loans totaling $26,772,281.

Fund F Loans Approved

Borrower	County	Amount
East Casey County Water District	Casey	$1,545,000
Jessamine South Elkhorn Water District	Jessamine	$3,025,300
City of Carrollton	Carroll	$1,850,270
City of Bowling Green f/b/o Bowling Green Municipal Utilities	Warren	$1,316,378
City of Harrodsburg	Mercer	$438,000
City of West Liberty	Morgan	$3,050,300
Adair County Water District	Adair	$1,500,000
City of Hodgenville	Larue	$774,183
City of Nicholasville	Jessamine	$4,000,000
City of Campbellsville	Taylor	$1,875,000
City of Centertown	Ohio	$922,850
City of Mount Vernon	Rockcastle	$2,600,000
Lyon County Water District	Lyon	$2,000,000
City of Campbellsville	Taylor	$1,875,000

Fund F Loan Increase. The committee approved two loan increases, one for the City of Hopkinsville for the benefit of Hopkinsville Water Environment Authority (Hopkins County) in the amount of $800,000 and one for the Bullock Pen Water District (Grant County) in the amount of $163,300.

Coal/Noncoal Projects. The committee also reviewed various grants for coal and noncoal counties that were included as line items in budget bills.

Review of Bond Issues and Financing Agreements

In addition to the individual bond-funded projects, the committee approved the following bond issues and financing agreements.

State Property and Buildings Commission (SPBC). The committee approved three new SPBC bond issues (Projects No. 102 , 103, and 104), which refunded outstanding University of Kentucky, Eastern Kentucky University, and Kentucky State Fair Board debt for a net present value savings.

Postsecondary Institutions. The committee approved six new bond issues for postsecondary institutions.

The committee approved $35,860,000 Western Kentucky University General Receipts Refunding Bonds, 2012 Series A, and $7,748,414 General Receipts Refunding Bonds, 2012 Series B, which will finance a portion of the Downing University Center renovations, refund Consolidated Educational Building Revenue Bonds, Series Q, and pay a costs of issuance for both series.

The committee approved $32,893,236 Eastern Kentucky University General Receipts Refunding Bonds, 2012 Series A, to refund Consolidated Education Buildings Bonds, Series V (2004).

The committee approved $17,500,000 University of Louisville General Receipts Revenue Refunding Bonds, 2012 Series A, to refund Series N and Series O Consolidated Educational Building Revenue Bonds in the amounts of $12,523,744 and $4,976,255, respectively.

The committee approved $5,090,000 Morehead State University General Receipts Bonds, 2012 Series A, to finance the renovation of an existing residential facility.

The committee approved $33,666,955 University of Kentucky General Receipts Refunding Bonds, 2021 Series A, to refund outstanding debt for a net present value savings of $664,933.

Kentucky Economic Development Finance Authority (KEDFA). With KEDFA bond issues, the state is a conduit issuer and has no legal or moral obligation for the repayment of the debt. The bonds are issued for the benefit of the developer, but the developer has full responsibility for the repayment of the bonds. The committee approved two KEDFA conduit bond issues during the reporting period: $161,293,834 for Baptist Healthcare Obligated Group to make improvements at Baptist Healthcare System hospitals in Lexington, Paducah, and St. Matthews, and $50 million in revenue and revenue refunding bonds for Masonic Homes of Kentucky.

Kentucky Housing Corporation (KHC). The committee approved two conduit bond issues for KHC: $1,540,000 in multifamily housing revenue bonds to finance improvements to the Garden Apartments complex in Bowling Green, and $12,630,732 in multifamily housing revenue bonds to finance renovations at Hillebrand House in Louisville. The committee also approved $189,205,000 in single-family housing revenue bonds to refund previous bond issues.

ALCo Project notes. The committee approved a $75,000,000 interim bank loan from Citibank. Loan proceeds provide interim financing for currently authorized but unissued General Fund bond-supported capital projects.

Turnpike Authority of Kentucky. The committee reviewed two bond issues for the Turnpike Authority of Kentucky. The $616,288,002 in bond funds will permanently finance the remaining balance of road fund-supported projects authorized by 2009 and 2010 General Assemblies and permanently finance $56 million of Base Realignment and Closure projects authorized by the 2010 Extraordinary Session of the General Assembly. The bond issues also included an advance refunding of previously issued debt.

School Bond Issues

School Facilities Construction Commission (SFCC). During the reporting period, the committee approved 133 school bond issues with SFCC debt service participation. Of these new bond issues, 14 were for new schools, 41 financed improvements at existing schools, and 78 refunded outstanding debt.

Local School District Bond Issues. During the reporting period, the committee reviewed 51 local school district bond issues with 100 percent local debt service support and no SFCC debt service participation. Of these bond issues, 14 financed improvements at existing schools, and 37 refunded outstanding debt.

Review of State Leases

During the reporting period, the committee reviewed 22 leases with square footage modifications with annual increases of less than $50,000. Although the overall square footage and total annual rent changed, the rental rate per square foot remained the same. Of these modifications, two resulted in no annual increase and the remaining 20 increased annual rental payments by a total of $131,539.

The committee approved three leases with square footage modifications with annual increases greater than $50,000, one each for the Transportation Cabinet, the University of Kentucky, and the University of Louisville. The total increased annual cost on these three leases was $521,673.

The committee also reviewed nine leases with agency-requested modifications. The costs of the improvements are amortized over the remaining lease term. The total annual cost of the improvements for all nine leases is $55,050.

The committee approved six new leases for a total annual cost of $1,651,008. These leases were for the University of Kentucky (three), the Cabinet for Health and Family Services (two), and the Department for Libraries and Archives. The committee also approved 23 lease renewals and four emergency leases: the Cabinet for Health and Family Services and the Department for Workforce Investment in Morgan County, the

Transportation Cabinet (Magoffin), and the Cabinet for Health and Family Services (Scott).

Projects Not Approved

The committee did not approve a new lease for the Cabinet for Health and Family Services in Franklin County that would provide space for 210 employees associated with the Kentucky Health Benefits Exchange to satisfy provisions of the Affordable Care Act.

The committee did not take action on a $138 million unbudgeted capital project for the Kentucky Health Benefit Exchange Technology System.

The Finance and Administration Cabinet notified the committee that it would proceed with both projects.

Report of the 2012 Education Assessment and Accountability Review Subcommittee

Sen. Jack Westwood, Co-Chair
Rep. Ted Edmonds, Co-Chair

Sen. Vernie McGaha	Rep. Linda Belcher
Sen. Gerald Neal	Rep. Bill Farmer
Sen. Ken Winters	Rep. Mary Lou Marzian

LRC Staff: Ben Boggs, Ken Warlick, and Lisa Moore

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Education Assessment and Accountability Review Subcommittee

Jurisdiction: To review administrative regulations and advise the Kentucky Board of Education concerning the implementation of the state system of assessment and accountability, and to provide oversight and direction to the Office of Education Accountability.

Subcommittee Activity

The subcommittee met four times between June and December 2012.

Review of Administrative Regulations

The subcommittee reviewed the following administrative regulations: 703 KAR 5:002, *Repeal of CATS Regulations;* 703 KAR 5:140, *Report Card Content*; 703 KAR 5:240, *Definitions for School and District Classifications;* and 703 KAR 5:225, *School and District Accountability, Recognition, Support, and Consequences*.

The subcommittee found one regulation to be deficient: 703 KAR 5:070, *Special Populations in State-Required Assessment and Accountability Programs*. The Kentucky Board of Education has since withdrawn the regulation.

Oversight of the Office of Education Accountability

As part of its duties to provide oversight and direction to the Office of Education Accountability (OEA), the subcommittee reviewed a report of OEA's investigative activities. For the 2011 fiscal year, OEA received 565 written complaints. Of these, 50 were opened, 57 were closed, and 42 cases are still pending. OEA recommended that two statutes be amended as a result of issues directly encountered by OEA through investigations. The first pertains to KRS 160.990, which establishes penalties for violations of statutes within KRS Chapter 160. OEA recommends that it be amended to provide statutory guidance as to what agency or court shall make a determination of guilt, what mental state is required for guilt, and who shall enforce and collect resulting fines. The second pertains to KRS 159.035(2), which requires a principal to grant students up to 10 days of excused absence to pursue an educational enhancement opportunity (EEO). The statute requires that the activity for which the EEO excuse is granted provide a high-quality, educationally relevant experience that supports the student's in-school program. OEA recommends that the General Assembly consider asking the Department of Education to develop a regulation that more specifically defines what activities can be appropriately approved for purposes of this statute.

The subcommittee also received five OEA reports. *Tracking Teacher Shortages in Kentucky: Trends and Continuing Questions* found that, over the past decade, there have been substantial reductions in the number of employed teachers considered not fully qualified. OEA staff attributed much of this reduction to the increasing number of teachers certified through alternative routes. However, the state has made little progress in recruiting and retaining a diverse teaching workforce. Also, shortages are likely to be higher in some content areas in the future. The numbers of teachers completing programs in many secondary science areas and in English as a second language are not sufficient to meet the estimated demand projected for these subjects.

On-Behalf Payments focused on two broad sources of revenue: on-behalf payments and local activity funds. On-behalf payments are those made by the state on behalf of local school districts that are primarily directed to teacher retirement and health benefits. Local activity funds are local revenues directed toward functions such as textbooks, athletics, and student organizations. The study identified revenue that has not been reported on annual financial reports historically and revenue reported inconsistently among districts.

Funding Equity found that, while the magnitude varies depending on the analytical methodology, the equity gap between property-rich districts and property-poor districts for local and state revenue has been widening in recent years with a slight narrowing in fiscal year 2009.

Career and College Readiness analyzed college readiness by student gender and race, enrollment type (full time and part time) and postsecondary institution type (2-year public and 4-year public), and drew from ACT examination scores and recognized placement tests. The study found that students enrolled in 4-year public institutions had much higher rates of college readiness than 2-year public enrollees. Females enrolled at higher rates than males, and African-American students had significantly lower readiness scores than their white counterparts.

2011 District Data Profiles is a compilation of data collected from the 174 school districts. The document contains a state profile and individual district profiles. The profiles include student demographics and performance data, staffing data, and district expenditure and revenue data.

The Commissioner of Education and the Kentucky Department of Education staff presented the 2012 results for the Unbridled Learning Accountability Model. Also, the OEA completed its 2012 work schedule by presenting a report on *Governance of Education Data Security in Kentucky*. The proposed OEA 2013 Study Agenda was approved.

Report of the 2012
Government Contract Review Committee

Sen. Vernie McGaha, Co-Chair
Rep. Dennis Horlander, Co-Chair

Sen. Julian Carroll	Rep. Jesse Crenshaw
Sen. Carol Gibson	Rep. Brent Housman
Sen. Paul Hornback	Rep. Brent Yonts

LRC Staff: Kim M. Eisner, Charles Booker, and Rebecca A. Brooker

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Government Contract Review Committee

Jurisdiction: Review of all nonexempt memoranda of agreement by and between state agencies, and review of all nonexempt personal service contracts by state agencies and by off-budget agencies, that include, but are not limited to, the Kentucky Lottery Corporation, the Kentucky Housing Corporation, state universities within the Commonwealth, the Kentucky Employers' Mutual Insurance Corporation, the Kentucky Higher Education Assistance Authority, the Kentucky Student Loan Corporation, and the Kentucky Retirement Systems to examine the stated need for the service, whether the service could or should be performed by state personnel, the amount and duration of the contract or agreement, and the appropriateness of any exchange of resources or responsibilities; and review of all qualifying motion picture or entertainment production tax incentives.

Memoranda of agreement review exemptions include agreements between the Transportation Cabinet and political subdivisions of the Commonwealth for road and road-related projects; agreements between the Auditor of Public Accounts and other government agencies for auditing services; agreements between a state agency as required by federal or state law; agreements between state agencies and state universities or colleges, and agreements between state universities and colleges and employers of students in the Commonwealth Work Study Program; agreements involving child support collections and enforcement; agreements with public utilities, providers of certain direct Medicaid health care to individuals, and transit authorities; nonfinancial agreements; any obligation or payment for reimbursement of the cost of corrective action made pursuant to the Petroleum Storage Tank Environmental Assurance Fund; exchanges of confidential personal information between agencies; agreements between state agencies and rural concentrated employment programs; and any other agreement that the committee deems inappropriate for consideration.

Personal service contract review exemptions include agreements between the Department of Parks and a performing artist or artists for less than $5,000 per fiscal year, per artist or artists; agreements with public utilities, foster care parents, providers of certain direct Medicaid health care to individuals, individuals performing homemaker services, and transit authorities; agreements between state universities or colleges and employers of students in the Commonwealth Work Study Program; agreements between state agencies and rural concentrated employment programs; agreements between the State Fair Board and judges, officials, or entertainers contracted for events promoted by the State Fair Board; and any other contract that the committee deems inappropriate for consideration.

Committee Activity

The Government Contract Review Committee is a statutory committee of the Legislative Research Commission and is required to meet monthly. During fiscal year 2012 beginning July 1, 2011, and ending June 30, 2012, the committee reviewed 696 personal service contracts and 593 amendments to personal service contracts. The committee also reviewed 252 personal service contracts for $10,000 and less, which are submitted to the committee for informational purposes only.

During FY 2012, the committee reviewed 930 memoranda of agreement and 1,302 memoranda of agreement amendments. The committee also reviewed 814 memoranda of agreement for $50,000 and less, which are submitted to the committee for informational purposes only.

During FY 2012, the committee reviewed 1,541 personal service contract items, 3,046 memoranda of agreement items and 4 film tax incentive agreements for a total of 4,591 items.

Since the start of FY 2013 through November 13, 2012, the committee has reviewed 894 personal service contracts and 233 amendments to personal service contracts. The committee has also reviewed 166 personal service contracts for $10,000 and less, which are submitted to the committee for informational purposes only.

Since the start of FY 2013 through November 13, 2012, the committee has reviewed 1,010 memoranda of agreement and 537 memoranda of agreement amendments. The committee also reviewed 574 memoranda of agreement for $50,000 and less, which are submitted to the committee for informational purposes only.

Additionally, as a result of House Bill 3 of the 2009 Special Session, the committee reviewed one film tax incentive agreement at the September 11, 2012, meeting and two film tax incentive agreements at the November 13, 2012, meeting

Since the start of FY 2013 through November 13, 2012, the committee has reviewed 1,293 personal service contract items, 2,121 memoranda of agreement items and 3 film tax incentive agreement for a total of 3,417 items.

Note: These totals reflect all personal service contracts, memoranda of agreements, and film tax incentive agreements entered into the eMars procurement system and captured by the LRC Contract Reporting Database.

Report of the 2012
Program Review and Investigations Committee

Sen. Jimmy Higdon, Co-Chair
Rep. Fitz Steele, Co-Chair

Sen. Tom Buford	Rep. Dwight D. Butler
Sen. Perry B. Clark	Rep. Leslie Combs
Sen. Vernie McGaha	Rep. Jim DeCesare
Sen. Joey Pendleton	Rep. Terry Mills
Sen. Dan “Malano” Seum	Rep. Ruth Ann Palumbo
Sen. Brandon Smith	Rep. Rick Rand
Sen. Katie Kratz Stine	Rep. Arnold Simpson

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Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Program Review and Investigations Committee

Jurisdiction: The Program Review and Investigations Committee is a 16-member bipartisan committee authorized under KRS Chapter 6. The committee is empowered to review the operations of state agencies and programs, to determine whether funds are being spent for the purposes for which they were appropriated, to evaluate the efficiency of program operations, and to evaluate the impact of state government reorganizations. State agencies are obligated to correct operational problems identified by the committee and must implement the committee's recommendations or propose suitable alternatives.

Any official in the executive, judicial, or legislative branches of government may request a study. A majority vote of the committee is required to initiate research studies and to approve final reports. Reports are based on staff research but represent the official opinion of the majority of the committee once approved. The committee issues a final report for a study after public deliberations that include the responses of officials of relevant state agencies.

Committee Activity

The Legislative Program Review and Investigations Committee held nine meetings through November. The committee elected Senate and House co-chairs and selected six new topics for study by committee staff in 2012: boards and commissions; Kentucky Retirement Systems and Teachers Retirement Systems; impact and importance of the coal industry to Kentucky; personal care homes; four laws related to health and welfare that the executive branch has not implemented; and the “medically fragile” designation in the foster care system.

The committee adopted one report that had been presented at a meeting in 2011: *Kentucky’s Community Mental Health System Is Expanding and Would Benefit From Better Planning and Reporting: An Update.*

The committee adopted four reports that were first presented in 2012.

According to the report *Economic Contribution of the Kentucky Coal Industry*, Kentucky is the third highest coal producing state. Production has decreased though from a peak of 173 million tons in 1990 to 105 million tons in 2010. In 2010, employment in the Kentucky coal mining industry was more than 19,000, down from a peak of more than 50,000 in 1979. However, coal employment as a percentage of total county employment grew over the past 10 years in 7 of the 10 counties with the highest coal industry employment. When direct and indirect economic effects are considered, the report estimates that the total economic contribution of the coal mining industry to Kentucky in 2010 was $10 billion in output, 42,078 jobs, and $2.85 billion in earnings. The estimated total income, sales, and severance tax revenue attributable to the industry was nearly $470 million that year. Recent significant decreases in the price of natural gas have increased its use and projected use in electricity production. Federal regulatory changes in recent years have made mine permitting more stringent, slower, and more uncertain. Among recent changes in air quality regulation are lowered allowable emissions of pollutants such as mercury, sulfur dioxide, and nitrogen oxides. A proposed greenhouse gas rule would impose a limit on carbon dioxide emissions for new sources that coal-fired plants would be unable to achieve with current technology. The respondents to the report were the Secretary of the Energy and Environment Cabinet, the Commissioner of the cabinet's Department for Environmental Protection, the Commissioner of the cabinet's Department for Natural Resources, the President of the Kentucky Coal Association, the President of Coal Operators & Associates, and the Executive Director of the Western Kentucky Coal Association.

According to the report, *Governance, Funding, and Investments of the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System*, contributions from employers and members help fund the systems, but investment gains are typically more important. Multibillion-dollar investment losses in fiscal years 2008 and 2009 contributed to funding levels being lower than recommended. As of fiscal year 2011, assets for system funds within Kentucky Retirement Systems (KRS) ranged from 36 percent to 63 percent of the amounts needed to pay current and future obligations. The funding level for the Kentucky Teachers' Retirement System (KTRS) was 57 percent. KRS and KTRS emphasize evaluating investment performance over the long run. KRS exceeded its 26-year benchmark. The time period is uncertain for a similar long-term benchmark for KTRS. The 10-year return for KRS was 5.5 percent; the 10-year return for KTRS was 4.8 percent. By comparison, the return of the median system among more than 100 other public employee pension systems was 5.6 percent. Concerns about transparency in how public employee retirement systems have used placement agents in the investment process have led to changes in laws in Kentucky and other states. The report summarizes recent legislation and subsequent legal cases in other states regarding inviolable contracts for public employee retirement benefits. The report recommends that KTRS should ensure that information is posted online as required by statute and that KRS, KTRS, and the Executive Branch Ethics Commission should confer on the implementation of the 2012 law dealing with placement agents. The Chief Investment Officer and Interim General Counsel of KRS; a Deputy Executive Secretary, the Director of Investment Management, and Investment Consultant from KTRS; and the Executive Director of the Executive Branch Ethics Commission responded to the report.

The report *Medically Fragile Foster Children* notes that as of May 2012, there were 116 medically fragile foster children in Kentucky. These children have medical conditions that require special services, support, and monitoring from foster parents. Such parents require additional training, and the children require heightened oversight. These homes receive higher per diem payments than do other foster homes. A nurse administrator in the Cabinet for Health and Family Services designates a foster child as medically fragile in consultation with other foster care and health professionals. The cabinet contracts with private placing agencies for additional foster homes as needed. Electronic tracking of the children's status is either nonexistent or is through computer systems that are not linked. Payment for the children's medical services is through Medicaid. Total medically fragile per diem costs for FY 2010 were nearly $2.9 million, reimbursed from federal and state contributions. The report has recommendations for the cabinet to create an electronic medical records system and to consider adding staff to help the nurse administrator. The Assistant Director and Medical Support Section nurse administrator of the Department for Community Based Services' Division of Protection and Permanency responded to the report.

The report *Implementation Status of Four Laws Related to Health and Welfare* covers specific laws enacted in 2003, 2004, and 2005. HB 501 (2003) directs the chairperson of the HB 144 Commission to appoint an ad hoc committee to develop recommendations for the implementation of a self-determination model of funding services and supports for participants in the Supports for Community Living Program. The commission accepted the subcommittee's recommendations but deferred action pending legislative action on a proposed alternative to the recommended pilot program. The alternative was enacted as HB 116 in 2004. Two of the three main provisions of HB 322 (2004) have been implemented. Membership of an interagency council was revised in compliance with the bill. Kentucky postsecondary institutions reported that they have provided housing accommodation for disabled students as required by the bill. A joint ad hoc committee on transition services was not created as mandated by the bill. HB 671 (2004) requires the Cabinet for Health and Family Services (1) to conduct an internal review of any case in which child abuse or neglect resulted in a child fatality or near fatality and the cabinet had prior involvement with the child or family and (2) to report on the case reviews annually. It is unclear whether all required internal reviews have been done. The Governor created an external review panel this year to review child fatalities and near fatalities determined to be due to child abuse or neglect. The cabinet has produced annual reviews as directed, but not every report met the September 1 reporting deadline. The legend drug repository program mandated in SB 23 (2005) has not been implemented. The bill also authorizes a pharmaceutical assistance program, contingent on approval from the US Centers for Medicare and Medicaid Services, with benefits limited to the amount of appropriations. A prescription assistance program has been created, but it is not the same program authorized by the bill. The Deputy Secretary and Executive Director of the Office of Policy and Budget of the Cabinet for Health and Family Services responded to the report.

Staff presented one report, *Personal Care Homes in Kentucky*, which has not been voted on by the committee. Personal care homes are facilities for aged or invalid persons who do not require the intensive care normally provided in a hospital or nursing home but who do require care in excess of room, board, and laundry. As of September 2012, there were 81 personal care homes in Kentucky. The study focused on 50 facilities that serve low-income groups who receive public assistance in the form of state supplementation payments. These supplement personal care homes currently house 2,361 residents, most of whom have severe and persistent mental illness. The report addresses how personal care homes operate and the services they provide, payments by residents, state oversight, and alternatives to personal care homes. The report makes nine recommendations to the Cabinet for Health and Family Services. From the cabinet, the Deputy Secretary, Executive Director of the Office of Policy and Budget, and Deputy Commissioner for the Department for Behavioral Health, Developmental, and Intellectual Disabilities responded to the report. The chairman of an advocacy group for community treatment and the administrator of a personal care home also responded.

The committee heard testimony on four topics unrelated to the presentation of new reports.

Independent pharmacists, the Acting Commissioner of the Department for Medicaid Services, a dentist, representatives of three managed care organizations, representatives of three pharmacy benefit managers, and representatives of two pharmacy service administration organizations testified about the continuing problems in implementing Medicaid managed care. The testimony and questions from committee members were predominantly about the impact of managed care on independent pharmacies and their customers. The Auditor of Public Accounts testified about his office's investigation of the Medicaid managed care organizations.

The Commissioner and two associate commissioners from the Department of Education; the President and a Senior Vice President from the Council on Postsecondary Education; and the Executive Director, two division directors, and a project specialist from the Education Professional Standards Board provided an update on the implementation status of SB 1 (2009).

A Deputy Secretary of the Cabinet for Health and Family Services and the Commissioner, a Deputy Commissioner, and a branch manager from the cabinet's Department for Behavioral Health, Developmental, and Intellectual Disabilities testified on contracting for Impact Plus service providers.

The Commissioner of the Department for Local Government, the Chair of the Endow Kentucky Commission, and the Executive Director of the Foundation for Appalachian Kentucky testified about the implementation of the Endow Kentucky program, which was authorized by SB 227 (2010).

For the December meeting, the committee is scheduled to select topics for 2013, and staff will present a report on boards and commissions. Officials from the Executive Branch Ethics Commission, Kentucky Retirement Systems, and Kentucky Teachers' Retirement Systems are scheduled to respond to a recommendation in a report presented this year.

Report of the 2012
Tobacco Settlement Agreement Fund Oversight Committee

Sen. Paul Hornback, Co-Chair
Rep. Wilson Stone, Co-Chair

Sen. Carroll Gibson
Sen. David Givens
Sen. Vernie McGaha
Sen. Dennis Parrett
Sen. Joey Pendleton
Rep. Royce Adams
Rep. Tom McKee
Rep. Terry Mills
Rep. Fred Nesler
Rep. Ryan Quarles
Rep. Tommy Turner

LRC Staff: Lowell Atchley, Tanya Monsanto, and Kelly Blevins

Presented to the
Legislative Research Commission
and the
2013 Regular Session of the
Kentucky General Assembly

Tobacco Settlement Agreement Fund Oversight Committee

Jurisdiction: Matters pertaining to the Agricultural Development Board, including requests to the board for grants and loans; planning by the board to establish short-term and long-term goals, to devise strategies, and to make investments that will assist farmers, and the administrative, financial, and programmatic activities of the board; expenditures under the Early Childhood Development Fund and the Kentucky Health Care Improvement Fund; efforts of agencies and educational institutions to assist in the revitalization and diversification of tobacco farms; efforts of institutions of public postsecondary research in conducting alternative crop development research; review of county agricultural development council plans; review of the use of Tobacco Master Settlement Agreement money.

Committee Activity

The Tobacco Settlement Agreement Fund Oversight Committee met 10 times during the 2012 calendar year.

As required by statute, each month the committee received regular activity reports from the Governor's Office of Agricultural Policy (GOAP) regarding Agricultural Development Board (ADB) funding decisions on project applications. Also, the committee received reports and testimony from executive branch agencies and other entities that receive a portion of the tobacco settlement funds.

The committee dealt with a variety of issues under the oversight purview of the legislative panel, including continuing Master Settlement Agreement (MSA) funding and budgetary matters. Committee members often asked questions about and commented on the spending decisions made by the ADB and by other executive branch agencies receiving the funds.

Agricultural Development Fund Projects

The Governor's Office of Agricultural Policy testified each month about projects that had been considered by the Agricultural Development Board. In receiving these reports, the committee performed its responsibility of monitoring the expenditure of funds received under the Master Settlement Agreement, receiving reports of the Agricultural Development Board through the Governor's Office of Agricultural Policy, and overseeing the pattern of Master Settlement Agreement fund usage in accordance with statutes.

GOAP reviewed projects affecting single counties, regions, and the state as a whole, presenting a monthly listing of funding decisions for three types of county-level programs: the County Agricultural Improvement Program, the Deceased Farm Animal Disposal Assistance Program, and the Shared-Use Equipment Program. GOAP also reviewed information on other funding programs, such as the On-Farm Energy Efficiency and Production Program and the Farmers' Market Infrastructure Competitive Grant Program.

Committee members asked questions about the board's grant procedures; how funding applications were reviewed and prepared by GOAP staff for the board's consideration; the reasons why some project applicants received or were denied funding; and project monitoring, compliance, and reporting.

Committee members suggested the board consider new or innovative project ideas. They urged the board to set higher standards for those entities returning to the board to request additional multiyear funding, and they commented on the need to commit funding for deceased on-farm livestock disposal endeavors. Members commented on projects aimed at linking producers with consumers in the larger metropolitan areas of the state through direct food sales to consumers or marketing to particular entities, such as restaurants or school systems. There were discussions about maintaining some of the MSA funding for agricultural diversification.

Agency Reports Received

The committee received status reports from administrators of programs obtaining tobacco settlement funds through the state budget or directly from the Agricultural Development Board.

The Office of Early Childhood Development, which receives 25 percent of the state's tobacco settlement funds, outlined progress made by the many programs operating under the Office of Early Childhood Development's administrative umbrella. The Department of Insurance reported on the status of the Health Care Improvement Authority, as well as the Kentucky Access high-risk health insurance pool. The department also updated the committee on the possible impact of the federal Patient Protection and Affordable Care Act on Kentucky Access.

The Assistant Director of the Division of Conservation reported on the solid waste and water quality cost share and soil stewardship programs.

The directors of the University of Kentucky Markey Cancer Center and the Brown Cancer Center at the University of Louisville discussed research and other work being done under the Kentucky Lung Cancer Research Program.

Representatives of the Tobacco Prevention and Cessation Program and of the Kentucky Agency for Substance Abuse Policy reported on efforts to reduce tobacco use in the state and to decrease alcohol and drug abuse.

Other Reports and Actions

The committee heard presentations from representatives of the Louisville-Jefferson County Metro Government Farm to Table and Agribusiness Loan programs, and from members of the Daviess County, Hardin County, Henry County, and Laurel County agricultural development councils.