

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

2006

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

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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 take testimony on a number of important issues that may confront the General Assembly.

During the 2006 Interim, all 14 interim joint committees held meetings. Two special committees were authorized by LRC. All eight statutory committees met during the 2006 Interim.

LRC provides this informational booklet as a summary of the activity of the interim joint, special, and statutory committees since adjournment of the 2006 General Assembly. The reports were prepared separately by the committee staff.

Robert Sherman
Director

Legislative Research Commission
Frankfort, Kentucky
December 2006

Contents

Foreword	i
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Reports of the 2006 Interim Joint Committees

Agriculture and Natural Resources.....	1
Appropriations and Revenue.....	11
Banking and Insurance.....	21
Economic Development and Tourism	25
Education	35
Energy	43
Health and Welfare	47
Judiciary	67
Labor and Industry	73
Licensing and Occupations.....	79
Local Government	85
Seniors, Veterans, Military Affairs, and Public Protection	91
State Government.....	99
Transportation.....	105

Reports of the 2006 Special Committees

Kentucky Broadband Task Force.....	115
Task Force on Local Taxation	117

Reports of the Statutory Committees

Administrative Regulation Review Subcommittee.....	121
Capital Planning Advisory Board.....	125
Capital Projects and Bond Oversight Committee	129
Education Assessment and Accountability Review Subcommittee.....	141
Government Contract Review Committee.....	145
Medicaid Oversight and Advisory Committee	149
Program Review and Investigations Committee.....	155
Tobacco Settlement Agreement Fund Oversight Committee	159

**Report of the 2006
Interim Joint Committee on
Agriculture and Natural Resources**

**Sen. Tom Jensen, Co-Chair
Rep. Tom McKee, Co-Chair
Rep. James Gooch, Co-Chair**

Sen. David E. Boswell
Sen. Ernie Harris
Sen. Dan Kelly
Sen. Robert J. Leeper
Sen. Vernie McGaha
Sen. Joey Pendleton
Sen. J. Dorsey Ridley
Sen. Richie Sanders, Jr.
Sen. Ernesto Scorsone
Sen. Damon Thayer
Rep. Royce W. Adams
Rep. Adrian K. Arnold
Rep. John A. Arnold, Jr.
Rep. James E. Bruce
Rep. Dwight D. Butler
Rep. Mike Cherry
Rep. Hubert Collins
Rep. James R. Comer, Jr.
Rep. Howard D. Cornett
Rep. Tim Couch
Rep. W. Milward Dedman, Jr.

Rep. Mike Denham
Rep. C.B. Embry, Jr.
Rep. W. Keith Hall
Rep. Jimmy Higdon
Rep. Charlie Hoffman
Rep. Charles E. Meade
Rep. Reginald K. Meeks
Rep. Brad Montell
Rep. Fred Nesler
Rep. Don R. Pasley
Rep. Marie L. Rader
Rep. Rick W. Rand
Rep. Steven Rudy
Rep. Terry Shelton
Rep. Brandon D. Smith
Rep. Jim Stewart III
Rep. Tommy Turner
Rep. Ken Upchurch
Rep. Robin L. Webb
Rep. Susan Westrom

LRC Staff: Tanya Monsanto, Biff Baker, Hank Marks, Lowell Atchley,
and Kelly Blevins

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

Subcommittee Organization and Membership**Subcommittee on Rural Issues****Sen. Vernie McGaha, Co-Chair****Rep. Mike Denham, Co-Chair**

Sen. Tom Jensen, ex officio
Sen. Robert J. Leeper
Sen. Richie Sanders, Jr.
Rep. Adrian K. Arnold
Rep. John A. Arnold, Jr.
Rep. Dwight D. Butler
Rep. Mike Cherry
Rep. James Comer, Jr.
Rep. C.B. Embry, Jr.

Rep. James Gooch, Jr., ex officio
Rep. Jimmy Higdon
Rep. Tom McKee, ex officio
Rep. Fred Nesler
Rep. Marie L. Rader
Rep. Rick W. Rand
Rep. Steven Rudy
Rep. Tommy Turner

Subcommittee on Horse Farming**Sen. Damon Thayer, Co-Chair****Rep. Susan Westrom, Co-Chair**

Sen. Tom Jensen, ex officio
Sen. Joey Pendleton
Rep. Royce W. Adams
Rep. James E. Bruce
Rep. James Carr
Rep. W. Milward Dedman, Jr.

Rep. James Gooch, Jr., ex officio
Rep. Charlie Hoffman
Rep. Tom McKee, ex officio
Rep. Brad Montell
Rep. Don R. Pasley
Rep. Ken Upchurch

Subcommittee on Natural Resources**Sen. Ernie Harris, Co-Chair****Rep. W. Keith Hall, Co-Chair**

Sen. David E. Boswell
Sen. Tom Jensen, ex officio
Sen. Dan Kelly
Sen. J. Dorsey Ridley
Sen. Ernesto Scorsone
Rep. Hubert Collins
Rep. Howard Cornett
Rep. Tim Couch

Rep. James Gooch, Jr., ex officio
Rep. Tom McKee, ex officio
Rep. Charles E. Meade
Rep. Reginald K. Meeks
Rep. Terry Shelton
Rep. Brandon D. Smith
Rep. Jim Stewart III
Rep. Robin L. Webb

Interim Joint Committee on Agriculture and Natural Resources

Jurisdiction: Matters pertaining to crops, livestock, poultry, and their marketing, disease control, and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; State Fair; county fairs; water pollution; air pollution; management of waste; protection of the environment; noise pollution; 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; Environmental and Public Protection Cabinet; all matters not specifically assigned to another committee relating to administrative, regulatory, or operating issues which, because of their smaller size, uniquely impact small business.

Committee Activity

The Interim Joint Committee on Agriculture and Natural Resources held six monthly meetings during the 2006 Interim. Three subcommittees were reauthorized from the 2005 Interim: Natural Resources Subcommittee, the Horse Farming Subcommittee, and the Rural Issues Subcommittee.

The Interim Joint Committee on Agriculture and Natural Resources received testimony on a variety of natural resources and environmental issues including coal mine safety and storm water management; however, the majority of the committee meetings were devoted to agricultural issues. The agricultural topics were varied and illustrated the changing nature of the agricultural sector in the national economy and the role that nonagricultural sectors, like energy, play in agricultural production and trade.

Regarding agricultural issues, testimony received at the July meeting illustrated the importance of rising energy costs on the production costs borne by Kentucky crop farmers. It also dramatized the way the agricultural sector is changing as the nation searches for new fuel stocks. According to testimony received from the Office of Energy Policy, the agricultural economy will be impacted by the changing nature of the energy industry. There will be an industrialization of energy resources. The recent emphasis on biofuels and ethanols is causing a surge in demand for grains like corn and is encouraging agencies like the Governor's Office of Agricultural Policy and the Kentucky Department of Agriculture (KDA) to research the viability of raising switch grass for biodiesel.

Some concern was expressed at the July meeting that cropland may be used to raise feedstock for fuel production rather than domestic food production, but according to testimony received from the University of Kentucky's Department of Agriculture, the alternative fuel market is a bubble economy and the high demand for these feedstocks may not be long lived. There is a need for better technology to test the octane levels in these new fuels. Testimony from the KDA on the construction of a motor fuels testing laboratory

provided some details on plans to develop tests for determining the quality of biodiesel and ethanol fuels for customers.

At the August meeting, the committee received two progress reports. First, the committee received an annual update from the Kentucky State Fair Board on the renovations, expansions, and use of space at the Kentucky fairgrounds. The Kentucky State Fair Board also discussed its role in the Louisville Arena project and possibilities for using land at the fairgrounds for the arena.

Second, the committee received a progress report from the site selection committee for the Agricultural Heritage Museum, which would be located in Mercer County and will cost roughly \$24 to \$36 million.

For the past two consecutive years, the Interim Joint Committee on Agriculture and Natural Resources has held a meeting at the University of Kentucky (UK) in conjunction with the Agricultural Round-up. In September, the committee participated in the activities of the Agricultural Round-up, which included site visits to the farm and to the animal diagnostic laboratory. The committee also received testimony about the transformation of agriculture from one that is food-based to one that is driven by other industries such as pharmaceuticals and biotechnology. This makes it important for universities to improve academic research in agriculture and to upgrade research facilities. Service delivery to farmers through farm extension programs continues to be instrumental in helping farmers remain efficient and profitable.

Retail sales of raw or unpasteurized milk also was discussed at the September meeting. This issue reflects a national trend in dietary preferences among certain consumers who desire unprocessed and unmodified foods. The Kentucky Department of Agriculture gave a report of a working group formed to examine opportunities for removing restrictions on the retail sale of unpasteurized milk. The discussion highlighted the conflict between consumer preferences, the development of new product opportunities like young cheeses, and protecting the public from food-borne illnesses such as salmonella.

In December, the Kentucky Farm Service Agency provided an update on plans to restructure the agency and close several offices. Due to the tobacco buyout, many offices do not have the workload to justify maintaining the same staffing levels. Also, the Kentucky Department of Agriculture discussed its farm safety program which encourages farmers to engage in safe farming practices. Another aspect of the farm safety program is a complementary focus on the safe use of all-terrain vehicles, which has gained broader usage in the farming industry.

Representatives from the Community Farm Alliance and KDA talked about several farm-to-school pilot programs in December. These pilots are an extension of a United States Department of Agriculture program to encourage the purchase of locally grown products by the public systems. These pilot programs at Berea College, University of Kentucky, and a public school system demonstrate how policy can provide greater market opportunities for

local farmers. Finally, the committee received testimony on the purchase of agricultural conservation easements program.

At the October and November meetings, the committee addressed natural resource and environmental issues. In October, the committee received testimony from the Environmental and Public Protection Cabinet on the implementation of Senate Bill 200 and House Bill 572, which updated the mine safety statutes and required mandatory drug and alcohol testing of coal miners. Mining disasters in West Virginia and Kentucky placed mine safety at the top of the legislative agenda for 2006.

The commissioner for natural resources explained that safety provisions to improve ventilation, roof control, and review new mine safety equipment would create better conditions in underground mines. Mandatory drug and alcohol testing of coal miners is needed in the industry, and Kentucky is the first in the nation to adopt such a program. Currently only 2.2 percent of miners tested have failed, and the intent is to promote rehabilitation while ensuring no one is impaired while working underground.

In November, the committee received testimony on one of the current storm water problems across the Commonwealth called combined sewer overflows (CSOs). Representatives from the Division of Water and the Kentucky Infrastructure Authority (KIA) explained that CSOs are discharges of untreated storm water mixed with untreated sanitary sewage that releases from the system into lakes or streams. It is a point source for pollution and creates problems for recreational users of lakes and streams, impairs aquatic environments for fish, and eventually impacts drinking water sources. KIA explained that the two agencies were working jointly to streamline the process of applying for grants to alleviate storm water problems.

In November, the committee received an update on the implementation of the Clean Air Interstate Rules (CAIR). Officials from the Division of Air Quality explained that the United States Environmental Protection Agency issued the new rules after several failed attempts to federally legislate a multipollutant strategy. While there is currently a state implementation plan that calls for the reductions of sulfur-dioxides (SO₂) and a seasonal program to curb emissions of nitrogen-oxides (NOX), the new CAIR program will create both a seasonal and an annual program for NOX and make further reductions in emissions of both SO₂ and NOX.

Administrative Regulations

The committee traditionally receives and reviews a considerable number of administrative regulations promulgated by state agencies.

As of November 15, 2006, the committee had received 61 administrative regulations. This does not reflect regulations that may be referred to the committee in December. Administrative regulations received by the committee pertained to programs in the Department of Agriculture, the Department of Fish and Wildlife Resources, and the

Divisions of Air Quality and Waste Management within the Environmental and Public Protection Cabinet.

The committee placed all administrative regulations on the agenda, but the committee did not take separate committee action on the administrative regulations. In not taking any action, administrative regulations were deemed approved.

Prefiled Bills Referred to the Committee

The committee received one prefiled bill for the 2007 Regular Session. BR 121, relating to horses, was pre-filed by Sen. Tom Buford.

Legislative Proposals Received From State Agencies

Several legislative proposals were received in subcommittee and reported by the co-chairs to the full committee. Each proposal is identified below.

Kentucky Department of Agriculture

- Increase the Pest and Weed Branch budget by \$250,000 and maintain funding for subsequent years to help offset the increased costs of pesticides.
- Update the breeds that are eligible for state appropriations under the purebred cattle program and clarify when the department may deny funds for breeds that do not meet the number requirements in the statutes.
- Allow the showing of groups or pens of cattle. Increase appropriations to offset the increase in administrative costs for the purebred program that have occurred over the years.
- Clarify the definition of “wild ginseng,” allow fees to be assessed on dealers, and create fees and penalties for certain violations of the law.
- Increase the departmental budget to improve service delivery and maintain programs.

University of Kentucky

- Fund Phase 2 of the animal disease diagnostic laboratory by appropriating \$13.5 million to renovate existing space, create conference space, and replace old mechanical systems.
- Fund the College of Agriculture’s Equine Initiative to construct a facility for instruction within the new equine undergraduate program and to construct additional facilities necessary for new equine programs at UK.

Kentucky State University

- Create a statewide pond cost-share program of \$1.1 million to allow a 50/50 cost share for pond construction.
- Establish in-state production of aquaculture feeds.
- Implement a traceability program that could trace aquaculture products from the egg to the table.
- Fund \$75,000 to purchase equipment that can analyze mercury levels in fish and fish products to help in monitoring pond-grown fish to make sure the product remains safe and marketable.
- Develop a coldwater aquaculture program in eastern Kentucky.

Kentucky Farm Bureau

- Continue investing 50 percent of the Master Settlement Agreement funds to the Agricultural Development Board .
- Improve production practices by supporting the University of Kentucky's research agenda.
- Fund livestock disease diagnostic labs.
- Become better stewards of land and soil by funding soil erosion and water quality cost-share program.
- Support renewable fuels such as biodiesel and ethanol.

Kentucky Equine Education Project and United Mountain Horse Group

- Exempt stud fees, horse feed, supplies, and equipment from state sales tax.

Trail Riding Equestrians

- Create an exemption from liability for accidents occurring on the property for private landowners who allow recreational use of their property for trail riding.

Reports Received

Several reports were received by the committee. They are listed as follows.

Kentucky Commission on Small Business, *Annual Report for FY 2006*.

Kentucky State Nature Preserves Commission, *“Report on Kentucky’s Native Flora-status and Trends in Rare Plants”* 2006.

Kentucky Tobacco Research and Development Center, *Annual Report*, University of Kentucky College of Agriculture: 2000.

Division of Waste Management, *Solid Waste Management Report*, Environmental and Public Protection Cabinet, 2006.

Division of Waste Management, *Petroleum Storage Tank Environmental Assurance Fund Facilities Status of Cleanup Process Inventories Report for May and September 2006*.

Subcommittee Activity

Subcommittee on Natural Resources

The subcommittee held three meetings during the 2006 Interim. At the July meeting, the Division of Waste Management of the Environmental and Public Protection Cabinet provided a report on recycling programs and initiatives. The division also updated the subcommittee on programs relating specifically to e-waste recycling and on the statewide solid waste management report.

At the October meeting, the Department for Natural Resources and the Division of Conservation provided testimony relating to the condition and safety of dams within the Commonwealth and the current status of dam repair projects. The December meeting focused on the Petroleum Underground Storage Tank Program.

Subcommittee on Rural Issues

The subcommittee held three meetings during the 2006 Interim. The topics discussed included the status of Farm Service Agency (FSA) office closings in Kentucky, an overview of loan and grant programs administered by Kentucky Rural Development, rural health and poverty, and potential legislative issues for the 2007 Session.

In July, the subcommittee heard testimony from Kentucky’s FSA regarding the different loan and grant programs that the agency offers. FSA also provided an update on the tobacco quota buyout. Representatives from Kentucky Rural Development discussed their agency’s loan and grant programs and eligibility requirements.

In October, the subcommittee heard testimony from the Kentucky Department of Agriculture, the University of Kentucky’s College of Agriculture, and Kentucky State University on potential legislative proposals for the 2007 Session of the General Assembly. In December, the subcommittee examined rural health care.

Subcommittee on Horse Farming

The Subcommittee on Horse Farming met three times during the 2006 interim. During its July meeting, the subcommittee received updates from representatives of the Kentucky Horse Racing Authority (KHRA) on implementation of the breeder incentive programs and on general agency issues. Also, representatives from the North American Racing Academy and the Kentucky Community and Technical College System discussed the goals, mission, and objectives of the new racing academy.

In October, officials with the KHRA and the standardbred horse industry discussed the current condition of standardbred racing and breeding in Kentucky. In addition, the subcommittee heard a presentation on Race for Education, which is a national education scholarship program.

In November, the subcommittee heard a wide-ranging discussion of issues important to nonrace pleasure and show horse breeders and owners including the need for legislation to allow sales tax exemptions on horse farm purchases. Also, the subcommittee heard a report on the Kentucky Equine Management Internship program.

**Rreport of the 2006
Interim Joint Committee on
Appropriations and Revenue**

**Sen. Charlie Borders, Co-Chair
Rep. Harry Moberly, Jr., Co-Chair**

Sen. David E. Boswell
Sen. Tom Buford
Sen. Carroll Gibson
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Dan Kelly
Sen. Alice Kerr
Sen. Robert J. “Bob” Leeper
Sen. Vernie McGaha
Sen. R.J. Palmer II
Sen. Tim Shaughnessy
Sen. Robert Stivers II
Sen. Gary Tapp
Sen. Elizabeth Tori
Sen. Johnny Ray Turner
Sen. Jack Westwood
Rep. Royce W. Adams
Rep. John A. Arnold, Jr.
Rep. Joe Barrows
Rep. Scott W. Brinkman
Rep. Dwight D. Butler
Rep. Larry Clark

Rep. James R. Comer, Jr.
Rep. Jesse Crenshaw
Rep. Bob M. DeWeese
Rep. Jon Draud
Rep. Danny R. Ford
Rep. W. Keith Hall
Rep. Joni L. Jenkins
Rep. Jimmie Lee
Rep. Mary Lou Marzian
Rep. Lonnie Napier
Rep. Fred Nesler
Rep. Stephen R. Nunn
Rep. Don R. Pasley
Rep. Marie L. Rader
Rep. Charles L. Siler
Rep. Arnold Simpson
Rep. John Will Stacy
Rep. Tommy Turner
Rep. John Vincent
Rep. Jim Wayne
Rep. Robin L. Webb
Rep. Rob Wilkey

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

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

Subcommittee Organization and Membership**Budget Review Subcommittee on
Economic Development and Tourism, Natural Resources and
Environmental Protection****Sen. Ernie Harris, Co-Chair**
Rep. John Arnold, Co-ChairSen. David E. Boswell
Sen. Alice Forgy Kerr
Sen. Richie Sanders, Jr.
Rep. Larry Clark
Rep. Charlie Hoffman
Rep. Dennis Keene
Rep. Lonnie NapierRep. Arnold Simpson
Rep. Tommy Thompson
Rep. John Vincent
Rep. Susan Westrom
Rep. Jim Gooch, Jr., nonvoting ex officio
Rep. Ruth Ann Palumbo, nonvoting ex officioSen. Charlie Borders, ex officio
Rep. Harry Moberly, Jr., ex officio

LRC Budget Review Staff: Jeff Hancock, Kevin Mason, Jack McNear, and Christina Lee

**Budget Review Subcommittee on
Education****Sen. Brett Guthrie, Co-Chair**
Rep. John Will Stacy, Co-ChairSen. Tim Shaughnessy
Sen. Ken Winters
Rep. Joe Barrows
Rep. Jon Draud
Rep. Derrick GrahamRep. Mary Lou Marzian
Rep. Charles Miller
Rep. Rick G. Nelson
Rep. Tommy Turner
Rep. Frank Rasche, nonvoting ex officioSen. Charlie Borders, ex officio
Rep. Harry Moberly, Jr., ex officio

LRC Budget Review Staff: Linda Jacobs Ellis, Greg Rush, and Matt Ellis

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

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

Sen. Julian M. Carroll	Rep. Rick W. Rand
Sen. Elizabeth Tori	Rep. Charles L. Siler
Sen. David L. Williams	Rep. Jim Wayne
Rep. Carolyn Belcher	Rep. Thomas M. McKee, nonvoting ex officio
Rep. Don R. Pasley	Rep. Mike Weaver, nonvoting ex officio
Rep. Tanya G. Pullin	

Sen. Charlie Borders, ex officio
Rep. Harry Moberly, Jr., ex officio

LRC Budget Review Staff: Randy Smith, Frank Willey, and Spring Emerson

**Budget Review Subcommittee on
Human Resources**

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

Sen. Julie Denton	Rep. Reginald K. Meeks
Sen. Daniel Mongiardo	Rep. Stephen R. Nunn
Rep. Scott W. Brinkman	Rep. Darryl T. Owens
Rep. Bob M. DeWeese	Rep. Kathy W. Stein
Rep. Joni L. Jenkins	Rep. Tom Burch, nonvoting ex officio

Sen. Charlie Borders, ex officio
Rep. Harry Moberly, Jr., ex officio

LRC Budget Review Staff: Cindy Murray, Frank Willey, and Matt Ellis

**Budget Review Subcommittee on
Justice and Judiciary****Sen. Robert Stivers, Co-Chair**
Rep. Jesse Crenshaw, Co-ChairSen. Gerald A. Neal
Sen. Dan Seum
Rep. Dwight D. Butler
Rep. Charles E. MeadeRep. Marie L. Rader
Rep. Robin L. Webb
Rep. Brent Yonts
Rep. Gross C. Lindsay, nonvoting ex officioSen. Charlie Borders, ex officio
Rep. Harry Moberly, Jr., ex officio

LRC Budget Review Staff: Karen Hilborn Crabtree, Mike Mullins, and Christina Lee

**Budget Review Subcommittee on
Transportation****Sen. Robert Leeper, Co-Chair**
Rep. Rob Wilkey, Co-ChairRep. Eddie Ballard
Rep. James R. Comer, Jr.
Rep. Mike Denham
Rep. Danny R. FordRep. W. Keith Hall
Rep. Fred Nesler
Rep. Ancel Smith
Rep. Hubert Collins, nonvoting ex officioSen. Charlie Borders, ex officio
Rep. Harry Moberly, Jr., ex officio

LRC Budget Review Staff: Joe Lancaster, Bart Hardin, and Spring Emerson

Sen. Charlie Borders, ex officio
Sen. Ernie Harris, ex officio
Rep. Harry Moberly, Jr., ex officio

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; veteran's 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 2006 Interim, the Interim Joint Committee on Appropriations and Revenue held six meetings.

The committee held its first meeting on July 27 in Frankfort. The State Budget Director gave a report on state revenue receipts and provided the revenue forecast. Next, the commissioner of the Department of Parks addressed the committee about strengthening the state's park system and needed parks projects. He discussed the department's five priorities and various ways Kentucky is promoting the state park system. He compared Kentucky's park system to other states' systems, stating that Kentucky ranks first in the number of resorts and lodge rooms and that Kentucky is one of only six states nationwide that do not charge access fees to visitors. The commissioner also discussed upgrades to state park campgrounds and needed park renovation projects. Finally, the secretary of the Finance and Administration Cabinet and the commissioner of the Department of Revenue discussed the department's reorganization.

At its second meeting, held on August 28 in Frankfort, the committee heard from the commissioner of Governor's Office for Local Development regarding single-county coal severance projects. The commissioner explained the single-county coal severance program and discussed the process by which money is allocated to participating counties. She discussed the Local Government Economic Development Fund (LGEDF) program, outlining how the money is dispersed. She stated that with the Governor's vetoes of the coal severance line-item projects, the money set aside for these projects in the budget reverted back to the LGEDF grant program. She discussed the grant application process and noted that the process is currently being amended to eliminate the letter of intent and full application projects. This will be replaced by a project scope and work report that describes the project and estimates costs and includes a resolution from the fiscal court. Finally, the secretary of the Cabinet for Economic Development discussed Kentucky's economic development incentive programs. He provided a general overview of the tax incentive programs, economic development bond program, Kentucky Economic Development Finance Authority direct and small loans program, economic impacts, and limitations on disclosure.

On September 28, the committee met in Frankfort and heard from the secretary of the Personnel Cabinet about Kentucky's employee health insurance plan. He briefly discussed the 2007 benefit plan for state employees, stating that the benefits will remain the same as the

2006 plan and that a passive open enrollment will be offered. He discussed the addition of a fourth plan selection for employees that will consist of a Health Reimbursement Account (HRA) that will allow funds in the account at the end of the year to roll over to the next. Next, the governmental affairs specialist for Goodwill Industries of Kentucky, Rep. Wayne, and Rep. Siler discussed 2007 BR 69 relating to tax credits for companies that hire the disabled. The purpose of the bill is to encourage employment opportunities for disabled Kentuckians. They explained that the “state use” section of the bill will help state government and community employment services interface and allow for better opportunities for the disabled community. The tax credit incentive will encourage the private sector to provide work for disabled citizens.

The committee held its forth meeting on October 18 in Winchester. Several officials and citizens addressed the committee to discuss various incentives and projects that have been beneficial to Winchester-Clark County. Rep. Pasley and Sen. Palmer presented a citation to a representative of Ale-8-One for being a longtime corporate citizen of Winchester-Clark County. Rep. Moberly discussed the importance of community development and infrastructure projects and their continued funding by the General Assembly. Next, the president of the University of Kentucky updated the committee regarding the university’s Top 20 Business Plan and the importance of the university achieving Top 20 status. He said that states with Top 20 universities have higher median income, higher educational attainment, lower poverty rates, and fewer citizens on Medicaid. He briefly discussed the increases and improvements made by the university over the past 10 years. He then compared the current statistics with where the university needed to be to achieve Top 20 status. He discussed the university’s budget over the next biennium. Next, the commissioner of the Department of Education discussed the implementation of House Bill 380 education technology initiatives. He discussed the history of and progress being made on the Kentucky Education Network, which is a high-speed, high-density network that will link the Department of Education and school districts across the state. The commissioner also discussed upgrading computer systems within Kentucky’s schools. Finally, he discussed the student information system.

The committee held its fifth meeting on November 28 in Frankfort. The director of the Adolescent Medicine and Young Parent Program with the Department of Pediatrics at the University of Kentucky discussed the program. He discussed the leading physical and mental health issues facing Kentucky’s youth, focusing on teen suicide rates, youth disability issues, sexual abuse, and teen pregnancy. He outlined the services that the program offers at-risk youth, which include suicide prevention and treatment, reproductive care to disabled teens, evaluation and long-term treatment for sexual abuse victims, and teen pregnancy prevention. He outlined the potential increase in service that could be offered with increased funding. Next, a representative from the Office of the State Budget Director gave an overview of tax increment financing (TIF) and Tourism Development Act incentives. He discussed the various types of TIFs providing their legislative history and enabling statutory language. He outlined the traditional and alternative TIF arrangements and described the use of local only TIFs. He discussed the use of TIFs in other states and listed the various projects in Kentucky, both completed and proposed, that have used tax increment financing. He concluded by briefly discussing Tourism Development Act incentives.

On December 14, the committee held its sixth meeting at Kentucky State University in Frankfort. A representative of the Office of the State Budget Director discussed the projected revenue surplus. Representatives from the department of Revenue discussed cigarette tax compliance initiatives being implemented by the department. Finally, representatives from the Louisville Zoo discussed funding needs for the zoo's proposed polar bear project, Glacier Run.

The committee did not take action on any prefiled bills or administrative regulations.

Subcommittee Activity

Budget Review Subcommittees

The Interim Joint Committee on Appropriations and Revenue is organized into six 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 2004-2006 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 held four meetings during the 2006 Interim.

The first meeting was held on July 27 in Frankfort. The agency directors gave brief presentations outlining the mission and day-to-day operations of their respective agencies. The director of the Division of Safety Analysis, Training and Certification in the Office of Mine Safety and Licensing of the Department of Natural Resources answered questions pertaining to self-contained self-rescuers used by coal miners in emergencies. The director of the Division of Conservation in the Department of Natural Resources then discussed conservation districts. The third speaker was the director of the Division of Oil and Gas Conservation in the Department of Natural Resources, who discussed issues resulting from the significant increase in requests for oil and gas well licenses. The last set of speakers were from the Department of Labor: deputy commissioner, the executive director of the Office of Occupational Safety and Health, the executive director of the Office of Workplace Standards, and the executive director of the Office of Labor Management Relations and Mediation. These speakers addressed issues of immigrant labor, legal resident status of Hispanic workers, and workers' compensation fraud.

The subcommittee held its second meeting on August 28 in Frankfort. The executive director of the Kentucky Office of Energy Policy gave a brief presentation outlining the mission and daily operations of the agency. The director of the Division of Renewable Energy and Energy Efficiency and the director of Fossil Fuels and Utility Services each provided information to support the testimony of the executive director. Next, the executive director of the Kentucky Historical Society and the director of finance gave a brief presentation outlining the activities of the Kentucky Historical Society.

The third meeting was held on September 28 in Frankfort. Presenters were the director and assistant director of the Division of Forestry in the Department for Natural Resources; the director of the Division of Administrative Services in the Department of Labor; the commissioner of the Department of Public Protection; the deputy director of the Office of Financial Institutions; the director of the Division of Securities; the executive director of the Office of Charitable Gaming; the executive director of the Public Service Commission; and the legislative liaison for the Public Service Commission. All speakers discussed the mission and day-to-day operations of their respective agencies.

The subcommittee's fourth meeting was held on November 28 in Frankfort. Representatives from the Kentucky Artisans Center, Kentucky Arts Council, Kentucky Heritage Council, and the Kentucky Center for the Arts discussed their agency's mission, day-to-day activities, and current budget implementation. The executive director of the Office of Arts and Cultural Heritage, along with the executive directors of the Artisans Center, Arts Council, and Heritage Council, indicated that each respective agency is in need of additional General Fund support for the remainder of the current fiscal biennium. In addition, the president of the Center for the Arts submitted a capital funding proposal to the subcommittee outlining the need for General Fund support to finance deferred capital improvements to the 23-year-old facility.

Budget Review Subcommittee on Education

The Budget Review Subcommittee on Education did not meet during the 2006 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 2006 Interim.

The meeting was held on November 28 in Frankfort. The purpose of the meeting was for the commissioner of the Kentucky Department of Agriculture to give an update of the activities of the department since the enactment of House Bill 380 during the 2006 Session. Specific inquiry was directed toward the implementation of the Fuel/Pesticide Testing Laboratory that was funded in order to provide cost effective and timely testing of Kentucky's gasoline and pesticide products. It is anticipated that upon full implementation of the lab, Kentucky will be able to contract with other states to provide testing services. This issue arose during the recent budget process when the department provided information on the costly and untimely testing process that was currently in place. There are a few testing facilities in this part of the country, and the agency found information difficult to obtain due to the location of the out-of-state facilities. The agency informed the committee that funds for fuel testing were nearly depleted with still more than six months remaining in the calendar year. The shortage of funding resulted from the agency's budget reduction efforts in addition to the increased demands for fuel testing.

One final issue that was addressed was the County Fair Program. There was a concern that due to recent budget reductions, funding for the County Fair Program was also reduced. Larger county fairs are able to take advantage of other funding opportunities to improve infrastructure, while the smaller county fairs primarily depend upon this program for such support.

Budget Review Subcommittee on Human Resources

The Budget Review Subcommittee on Human Resources did not meet during the 2006 Interim.

Budget Review Subcommittee on Justice and Judiciary

The Budget Review Subcommittee on Justice, Corrections, and Judiciary did not meet during the 2006 Interim.

Budget Review Subcommittee on Transportation

The Budget Review Subcommittee on Transportation held two meetings during the 2006 Interim. The subcommittee took no actions during the meetings concerning routine requests for interim appropriations increases.

The September 28 meeting consisted of Transportation Cabinet presentations relating to the implementation of the enacted 2007-2012 Six-Year Highway Plan. The discussion included construction cost projections and comparisons, the application of the State Construction Account cash balance of \$400 million, and the Louisville Bridges Project. Further topics discussed were the Road Fund revenue growth rate, private-sector outsourcing effectiveness, and discretionary budget bill language concerning miscellaneous road projects.

The December 14 meeting consisted of a Transportation Cabinet presentation concerning details of the long-term planning report on the Louisville Bridges Project, which was submitted to the Legislative Research Commission on December 1, 2006. The long-term planning report, as required by the 2006 General Assembly in House Bill 380, includes “project strategy, timeline, projected and actual financial data, construction schedule, total cost and cost to complete, anticipated revenues, revenue sources, and the overall financial impact on state transportation funds of the Louisville Bridges Project with respect to the federally funded component and the state funded component, over the life of the project.” The discussion further included a comparison of the long-term planning report to the Louisville Bridges Project Initial Financial Plan, which is due to both the Federal Highway Administration and the Legislative Research Commission by December 31, 2006.

**Report of the 2006
Interim Joint Committee on
Banking and Insurance**

Sen. Tom Buford, Co-Chair

Rep. James Bruce, Co-Chair

Sen. Julie Denton
Sen. Ernie Harris
Sen. Tom Jensen
Sen. Daniel Mongiardo
Sen. Gerald Neal
Sen. Dorsey Ridley
Sen. Richard Roeding
Sen. Dan Seum
Sen. Tim Shaughnessy
Rep. Sheldon Baugh
Rep. James Comer
Rep. Ron Crimm
Rep. Robert Damron
Rep. Mike Denham
Rep. Teddy Edmonds
Rep. Joseph Fischer
Rep. Danny Ford

Rep. James Gooch
Rep. J.R. Gray
Rep. Mike Harmon
Rep. Jimmy Higdon
Rep. Dennis Horlander
Rep. Dennis Keene
Rep. Charles Meade
Rep. Rick Rand
Rep. Frank Rasche
Rep. Steve Riggs
Rep. Brandon Smith
Rep. Tommy Thompson
Rep. Ken Upchurch
Rep. Ron Weston
Rep. Susan Westrom
Rep. Rob Wilkey
Rep. Addia Wuchner

LRC Staff: Greg Freedman, Rhonda Franklin, and Jamie Griffin

**Presented to the
Legislative Research Commission
and the
2007 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 five times during the 2006 Interim.

The first meeting was held on July 25. The executive director of the Office of Insurance addressed the committee regarding the Interstate Insurance Product Regulation Compact. Kentucky became the 22nd state to join the compact when the 2006 Kentucky General Assembly enacted House Bill 112. The compact is an agreement among member states to create a streamlined system of product regulation. The compact will create a central point of filing, review, and approval for insurance products based on national uniform standards with strong consumer protections. The legislatures of member states may opt out of a uniform standard adopted by the compact at any time through legislation or administrative regulation. The compact must report annually to the legislatures and the governor of each member state. The committee also discussed the Insurance Coverage, Affordability and Relief to Employers (ICARE) legislation enacted by the 2006 General Assembly to provide health insurance financial incentives to small employers of 2 to 25 employees. The program will be operational on January 1, 2007. Finally, the committee discussed the state employee self-insured health insurance plan with representatives of the Kentucky Education Association and the Kentucky Association of State Employees.

The second meeting of the Interim was held on August 22. The executive director of the Office of Financial Institutions addressed the committee on preparations the office has made to license money transmitters as required by Senate Bill 123 enacted by the 2006 Kentucky General Assembly. There are 10 licensed entities, 10 more are being reviewed, and 25 additional applications are anticipated. The executive director also discussed the Financial Literacy 2010 program and the growth of the deferred deposit (payday lenders) business in Kentucky. Representatives of Passport Health Plan addressed the committee. Passport is the only Medicaid partnership in Kentucky. The first member was enrolled in 1997 and the plan covers 16 counties. The committee agreed to write the secretary of the Cabinet for Health and Family Services and request that he enter into discussions with Passport about expanding the plan to the remainder of the state.

The third meeting was held in Louisville on September 11 as part of the Kentucky Bankers Association Annual Convention. The executive director of the Office of Financial Institutions addressed the committee on the number of retiring bank examiners. A number of examiners, like thousands of other state employees, will face a retirement issue in 2008. Another factor is the competition for bank examiners due to higher salaries available in the federal government and the banking industry. One consideration is to raise salaries by increasing the work week to 40 hours. The executive director also discussed the organizational structure of the Office of Financial Institutions in the Environmental and Public Protection Cabinet. Representatives of the Kentucky Bankers Association welcomed the committee and said an annual award will be named after the committee's House chairman, Rep. James Bruce, who is retiring at the end of his current legislative term. The award will be presented at each annual convention of the Kentucky Bankers Association to an individual or firm in recognition of outstanding government relations efforts and dedication to the banking industry.

The fourth meeting was held in Lexington on October 19. Representatives of the Kentucky Bankers Association discussed the bank examiner retirement issue, industrial loan corporations, and the organizational structure of the Office of Financial Institutions in the Environmental and Public Protection Cabinet. They said the plan of adding bank examiners is not happening quickly enough. New examiners must be hired to work with experienced, retired examiners. It takes a minimum of three years' experience in the field for an examiner to be adequately prepared to conduct examinations. The spokesmen addressed the issue of a certain large retailer trying to enter the banking market by acquiring industrial loan corporations. They oppose such action and suggested that since Kentucky already has strong state laws on industrial loan corporations, any legislation in this area will be largely symbolic but necessary to send a message to Washington, D.C. about this issue. They also suggested that both the Office of Insurance and the Office of Financial Institutions be removed from the Environmental and Public Protection Cabinet and placed within a newly created cabinet.

The final meeting was held on November 28. The executive director of the Office of Insurance presented an update on the ICARE program, which is a subsidy health insurance program for small employers of 2 to 25 employees. The office began taking applications on November 1, 2006, and the program will begin operations on January 1, 2007. The Office of Insurance has received 56 applications. The committee also heard testimony on two prefiled bills, BR 70 and BR 95. BR 70 pertains to no fault motor vehicle insurance and requires the provider of medical services to submit the statement for services within 45 days of the day the treatment is initiated and every 45 days thereafter. In no event shall a fee for medical expenses exceed the limitations of the Kentucky workers' compensation fee schedule. BR 95 provides that there shall be no recovery for the first \$10,000 of bodily injury and the first \$10,000 of property damage based on any cause or right of action arising out of a motor vehicle accident if the owner or operator fails to own or maintain motor vehicle liability insurance. The committee adopted a resolution honoring retiring chairman Rep. James E. Bruce for his 42 years in the General Assembly and his 28 years as chairman of the House Banking and Insurance Committee.

**Report of the 2006
Interim Joint Committee on
Economic Development and Tourism**

**Sen. Alice Kerr, Co-Chair
Rep. Eddie Ballard, Co-Chair**

Sen. Julian M. Carroll	Rep. Jim Gooch, Jr.
Sen. Julie Denton	Rep. W. Keith Hall
Sen. Brett Guthrie	Rep. Mike Harmon
Sen. Denise Harper Angel	Rep. Mary Harper
Sen. Ray S. Jones II	Rep. Melvin B. Henley
Sen. Jerry P. Rhoads	Rep. Dennis Horlander
Sen. Richie Sanders, Jr.	Rep. Dennis Keene
Sen. Katie Stine	Rep. Thomas Kerr
Sen. Jack Westwood	Rep. Stan Lee
Sen. Ken Winters	Rep. Gross C. Lindsay
Rep. Royce W. Adams	Rep. Gerry Lynn
Rep. Carolyn Belcher	Rep. Thomas M. McKee
Rep. Joe Bowen	Rep. Brad Montell
Rep. Kevin D. Bratcher	Rep. Fred Nesler
Rep. Denver Butler	Rep. David Osborne
Rep. James Carr	Rep. Ruth Ann Palumbo
Rep. Larry Clark	Rep. Tanya G. Pullin
Rep. Howard D. Cornett	Rep. Ancel Smith
Rep. Tim Couch	Rep. Brandon D. Smith
Rep. Jesse Crenshaw	Rep. John Will Stacy
Rep. Jim DeCesare	Rep. Tommy Thompson
Rep. W. Milward Dedman, Jr.	Rep. Mike Weaver
Rep. Mike Denham	Rep. Robin L. Webb
Rep. Bob M. DeWeese	Rep. Ron Weston
Rep. Ted "Teddy" Edmonds	

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

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

Subcommittee Organization and Membership

Task Force on Economic Development

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

Sen. Julie Denton	Rep. Melvin B. Henley
Sen. Brett Guthrie	Rep. Dennis Horlander
Sen. Jerry P. Rhoads	Rep. Dennis Keene
Rep. Joe Bowen	Rep. Thomas Kerr
Rep. Kevin D. Bratcher	Rep. Stan Lee
Rep. Denver Butler	Rep. Gross C. Lindsay
Rep. James Carr	Rep. Gerry Lynn
Rep. Tim Couch	Rep. Brad Montell
Rep. Jesse Crenshaw	Rep. Fred Nesler
Rep. Jim DeCesare	Rep. David Osborne
Rep. Mike Denham	Rep. John Will Stacy
Rep. Bob M. DeWeese	Rep. Tommy Thompson
Rep. Ted “Teddy” Edmonds	Rep. Mike Weaver

Rep. Eddie Ballard, ex officio

LRC Staff: John Buckner, Karen Armstrong-Cummings, Louis Pierce, 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 2006 Interim, the Interim Joint Committee on Economic Development and Tourism met four times.

The first meeting was held on August 25 in Frankfort. The meeting focused on tax increment financing (TIF) programs in Kentucky. The committee heard from the senior economist with the Governor's Office for Policy Research in the Office of the State Budget Director. The economist gave an overview of the different TIF programs authorized by statute and said that all are performance-based programs, which are consistent with the state's economic development strategy.

Prior to the passage of the state's current economic development programs in the late 1980s, development programs were largely based on grants provided to companies that met certain requirements. Those programs were risky because if a grant recipient failed, it was difficult to recoup money provided by the state. Current programs are performance based, meaning that an approved company is granted tax credits that can only be used if the company earns enough profit to necessitate paying state income tax. Performance-based programs tend to be self-policing because if an approved program does not meet its financial projections, then tax refunds are not granted.

The economist said that there are three key components to understanding how TIF programs work. The first is the amount of tax money generated by a specific geographic area before a new economic development project begins. The figure is used as a baseline. New revenues are the taxes that come in after a project is approved and completed. The "increment" is the difference between the baseline tax revenue and the tax revenue generated within the geographic area after the new project is operational. This increment, or a portion thereof, is what goes back to the development to be used to finance approved costs. In Kentucky, approved TIF projects typically receive 50 to 80 percent of the increment.

The economist then discussed the Churchill Downs TIF project and used it as an example of how TIF projects typically work. He said that “old revenues” were sales and income taxes collected before the agreement was entered. The specific program that Churchill Downs used allowed the Department of Revenue to use a three-year average of old revenues to create the baseline. “New revenues” were calculated when the agreement was activated and include the tax revenue that flows into Frankfort. This is compared to the baseline, and the increment is the difference between the two. A percentage of this as set forth in the grant agreement is returned to the developer.

He explained that the traditional arrangement of a TIF agreement is between three parties: the project developer, the Commonwealth, and a city or county development authority. The three parties first enter into a grant agreement. Next, the city or county issues bonds to generate proceeds. The bond proceeds are disbursed pursuant to an agreement between the city and the project, and the money goes to a project so that it can begin. Those steps serve as a preactivation of the financial mechanisms of a TIF agreement. Next, depending upon the structure of the TIF agreement, taxes within the TIF zone are paid to the Commonwealth or the city. A portion of the taxes paid to the Commonwealth—the incremental revenues—are returned to the city, which the city uses to pay the debt service on the bonds issued for the project.

The economist explained that a “local only” infrastructure TIF agreement allows local governments to grant up to 100 percent of incremental local property tax, excluding taxes dedicated to schools and special districts, from property located within the development area for up to 100 percent of infrastructure development costs. Each project can last up to 20 years. The projects require only local government approval. The development area must be at least 50 acres of undeveloped land, unless otherwise approved by the economic development authority, or contain at least one acre of brownfield and must be under the authority of an agency as defined in KRS 65.680.

He said that a “local and state” TIF agreement has the same requirements as the local only infrastructure TIF agreement, but the state portion must be approved by the Kentucky Economic Development Finance Authority or the Tourism Development Finance Authority. The state percentage of the TIF revenue is limited to the same percentage as local government contribution and is limited to property tax only. He noted that Kentucky is a relatively low property tax state and that the low property taxes limit the benefit going to the project.

The economist explained that TIF projects such as Churchill Downs and the Kentucky International Convention Center have extra requirements due to state involvement. The requirements include the need for new economic activity to the Commonwealth, a minimum of \$10 million in capital investment, the creation of at least 25 new jobs within the first two years, project revenues of 25 percent that must be attributable to sources outside the Commonwealth, a unique contribution to the economic vitality of the state, and the project not being primarily devoted to retail sales of goods.

He said 49 states have TIF laws but there is a great disparity among them. He said some states only have property tax TIFs, some have sales tax TIFs, and some have income tax TIFs. Kentucky TIF programs now have some of the broadest funding mechanisms and the most permissive eligibility requirements in the country. Kentucky TIFs also allow for projects outside blighted areas.

The economist said there are many administrative hurdles with tax increment financing because of statutory requirements. He said sales and income taxes are more complicated because many sales tax payers file a combined return that makes it difficult to single out a specific project. All vendors within a TIF agreement must submit disaggregated documentation to the project. He said renovation projects are more difficult because baseline revenues are not easy to estimate and the counterfactual is unclear—would the development of property within the TIF take place in the absence of a TIF agreement arrangement.

Next, representatives from the Louisville Zoo Foundation Board of Trustees provided an update on the zoo's Glacier Run project. The University of Louisville completed an economic impact study of the project, which was provided to committee members. The representative of the board explained that the zoo has an annual economic impact of approximately \$24 million and that the annual economic impact would increase to \$32.5 million with the completion of the Glacier Run project. She said since the kickoff of their capital campaign earlier this year, they have raised nearly \$8 million of the \$25 million necessary for completion. She thanked the General Assembly for appropriating \$6 million for Glacier Run in the 2006 session budget. She said that although the appropriation was vetoed, in light of the state's current budget surplus and the urgency of the project's schedule, she requested the committee's support of a midterm budget adjustment to allow the Glacier Run project to progress on schedule. She said this 5-acre addition to the zoo will bring national and international attention to the Commonwealth. Currently, 100,000 school children and 650,000 adults visit the zoo annually.

Another representative from the zoo gave an overview of the Glacier Run project. He said Glacier Run is modeled after a town in Churchill, Canada, where polar bears migrate through every year to get on the ice flows. He said the Louisville Zoo is known for its innovation. The last two major projects—the Islands Exhibit and Gorilla Forest—are the highest-scoring exhibits in North America according to the American Zoo and Aquarium Association. He said the classrooms in Glacier Run will seat approximately 60 students. The facility will also accommodate 120-150 students and adults for sleepovers to experience the exhibit. A DVD fly-through of the project was given.

He said the Louisville Zoo is the state zoo. Through "Zoo to You," they are visiting students in every county with some of the animals. Last year, they visited 3,000 students through the program. He said that not only does the zoo provide an economic impact, it also has an important quality of life impact. Glacier Run is a priority for the zoo and is the major component of its strategic initiative. On behalf of the board, he asked for consideration of a midterm budget adjustment of \$6 million.

The second meeting of the committee was held on September 22 in Owensboro. The chief executive officer and president of the Owensboro RiverPark Center gave a presentation on the importance of the arts to tourism and economic development in the region. He said the RiverPark Center, once only used occasionally, has progressed to a center that features world-renowned productions, with each show generating \$3-\$4 million in direct and indirect economic impact. He said that the high caliber of productions creates pride in the community. With such a high level of productions, it was important to create a young adult academy for high school and college students so that they could take full advantage of the opportunities provided by the arts. The academy is working with colleges in the region and all classes are now accredited.

The mayor of Owensboro welcomed the committee and gave an overview of the city's riverfront developments. He explained that approximately \$47 million would be invested in downtown Owensboro and the riverfront. He said Owensboro is interested in tax increment financing legislation as part of its development plan, and he expressed support for enacting legislation to provide communities with greater local taxing options.

The Daviess County judge/executive thanked the legislature for supporting the second phase of the Owensboro Technical and Community College's Advanced Technology Center. He said the local Chamber of Commerce and the Economic Development Corporation have been focusing on transportation initiatives with the promise of I-69 and I-66 routing through Kentucky. He said they are trying to transform the Audubon and Natcher Parkway into federally sanctioned spurs of I-66 and I-69, thus giving the area a federal transportation route.

He said Owensboro is the largest city in Kentucky without a four-year university and that the community is below average regionally and nationally on the number of baccalaureate degrees earned. Western Kentucky University has a satellite facility in the area; therefore, any support given to the university also supports Owensboro. Officials are working to increase the number of upper-division courses offered at the local facility.

The president of the Owensboro Economic Development Corporation said they are currently working on an initiative to brand the Owensboro community as a "learning community" based on education in school, in the workforce, and at home. He said a new company, Kentucky BioProcessing, had purchased a state-of-the-art bioprocessing facility in the area, which will help position the community as a world leader in the emerging industry of plant-made pharmaceuticals. He said Kentucky BioProcessing is the only operation in the world that can take a plant-made pharmaceutical from development to mass-quantity production. The economic development corporation is in discussions with other biotech companies to become specialty shops located around the facility. The intent is for the area to become an economic cluster if combined with the research being done at the James Graham Brown Cancer Center at the University of Louisville. Coupled with the tobacco research facility at the University of Kentucky, which develops alternative uses for tobacco, the corporation is bringing together higher education with an agricultural emphasis and bioprocessing.

Tours of the RiverPark Center, the International Bluegrass Museum, and the Owensboro Symphony Orchestra were given upon adjournment.

The third meeting of the committee was held on October 19 in Lexington at the Cold Stream Research Facility.

The president of the University of Kentucky welcomed the committee and gave a presentation on the linkages between economic development and higher education. He said universities were typically known for education, employment, and entertainment, but that should now also include economic development. He said universities in today's economy create many economic benefits, and it is incumbent on research universities to not only educate students but to create jobs for the purpose of retaining students.

He said 21st century economic necessities are innovation, creativity, and uniqueness. He explained that sustainable jobs in the United States must involve innovation and creativity because once a product is developed and designed, it will be manufactured in the cheapest location, which will most likely not be in the United States. He said that based on studies of this issue, by 2025, 50 percent of Americans will be self-employed. He tells UK students not to go to college to get a job but to go to college and create a job; therefore, students need an environment where this is a possibility. He explained that uniqueness is also a necessity, and UK is looking into the equine industry, advanced automotive products, pharmaceuticals, and energy for further development.

The president explained that the university's research resulted in \$290 million in new grants and contracts in 2005-2006. He said out-of-state research grants and contracts resulted in a \$410.6 million contribution to the state's economy during the last fiscal year. The university offers 58 Ph.D. programs.

He said the university's chain of economic development resources includes the E-Club, an entrepreneurship club for students; and the Venture Club, which offers a monthly meeting for entrepreneurial faculty to speak to investors, lawyers, and others interested in starting new businesses. There is also the Angel Network, which is a network of investors for start-up businesses, and the on-campus incubator that allows professors to start companies on campus to utilize university resources. Finally, there are a variety of venture capital investments, the Coldstream Research Campus, and intellectual property "brokers" available for business assistance.

The University of Kentucky is creating an Office of Economic Development to maximize the impact of intellectual property. The office will report directly to the president. The university has 281 active patents with 95 licenses issued, which have resulted in \$905,879 in royalties thus far. He said UK is 10th among all universities for the number of start-up companies formed per \$10 million in research spending.

The president explained ongoing efforts to add value to Kentucky industries such as Toyota and Secat, and through equine, energy, agriculture, and health care initiatives. He explained that UK has been an economic development recruiter with such companies as

Belcan/Sikorsky, Exstream Software, Neogen Corporation, and the National Bio and Agro-Defense Facility in Somerset.

Next, the chairman of the World Games 2010 Foundation, Inc. gave an update on the upcoming Fédération Equestre Internationale (FEI) Games. He introduced the chief executive officer of the 2010 World Equestrian Games, the executive director of the Kentucky Horse Park, and the secretary of the Kentucky Commerce Cabinet.

The chairman said the Kentucky Horse Park contributes nearly \$200 million to the state's economy and other states have been visiting Kentucky in an effort to capture a portion of the horse industry. It will take a unified effort for Kentucky to remain in the forefront. Based upon information gathered at the 2006 World Equestrian Games in Atcham, Germany, there were 580,000 tickets sold to visitors from 61 countries. He said that the games are not a one-time event but will have far-reaching effects on the future of Kentucky's economy. He stated that 90 percent of the attendees have never visited Kentucky and 60 percent have never been to the United States. The secretary of the Commerce Cabinet added that there were 450 million worldwide television viewers of the 2006 Games, with 449 million of those viewers outside the U.S.

The final meeting of the committee was held in Frankfort on November 16. The executive director of the Office of Special Programs and the coordinator of the Bicycle and Pedestrian Program of the Transportation Cabinet provided an overview of what the cabinet does to promote bicycling in the Commonwealth. The executive director said the cabinet emphasizes bicycle safety initiatives such as using the Transportation Enhancement Program to construct sidewalks within a two-mile radius of all elementary and secondary schools. The Office of Special Programs is also interested in maximizing efficiency by seeking ways in which programs may be designed to be complementary.

The director of Southbank Partners gave a presentation on waterfront developments along the Ohio and Licking Rivers in northern Kentucky. These developments are designed to dovetail with the recently completed Northern Kentucky Aquarium and Newport on the Levee. The presentation illustrated a variety of apartment, condominium, retail, and office developments, as well as the usage of bicycle and pedestrian trails to connect these developments with surrounding Kentucky and Cincinnati communities. The director said local, state, and federal funds are being leveraged and used for transportation enhancements.

The executive director of the nonprofit organization called Bicycling for Louisville gave an overview of the importance of bicycling and transportation enhancements designed to assist and promote safe bicycling. He said bicycling can offer potential solutions to traffic problems while simultaneously reducing problems associated with poor physical health and obesity. He noted that too often bicycles are viewed as toys or as something having second-class status to automobiles, but that in actuality, bicycles can become an integral part of a solution to traffic congestion. He cautioned, however, that highway signage and other safety-related features are important and needed throughout the Commonwealth. He said that educating bicyclists is also as important as educating drivers about the rights and responsibilities of all highway users.

The commander of the Governor's Highway Safety Program of the Kentucky State Police gave a presentation on bicycle and pedestrian accident data. The data showed, in part, that while there was an overall decrease in bicycle and pedestrian injuries caused by collisions with motorized vehicles, the fatality rate increased in 2005. This is a major concern, and the State Police is working with other agencies and local governments to provide better education and awareness programs, such as the "Share the Road" program. He said bicycle helmet usage was a key factor for bicycle safety and called upon the General Assembly to pass legislation requiring bicycle helmets for children younger than 16. He also said driver inattention is a key factor in causing accidents, and requiring bicycle riders to use flashing red lights when riding at night or on roads having a posted speed limit greater than 35 miles per hour would reduce collisions.

The owner of Pedal the Planet bicycle shop in Lexington gave a presentation on the importance of bicycle trails, trail development, and bicycle tours to the state's tourism economy. Citing data from a variety of states and localities, she provided materials showing the positive economic impact of bicycling and encouraged committee members to support the development of bicycle trails. She noted that Kentucky ranks near the bottom of all states in railtrail development. She also encouraged the development of "Share the Road" signage as an effective mechanism for reminding drivers to be alert for bicyclists.

The program coordinator for the Obesity Prevention Program in the Cabinet for Health and Family Services gave a presentation on its mission to help alleviate the rapidly escalating problem of obesity in Kentucky. She presented slides showing that Kentucky traditionally has one of the nation's highest rates of childhood obesity. She used a model developed by the Centers for Disease Control and Prevention to illustrate how confronting the epidemic of obesity requires a multifaceted approach, beginning with individual initiative and responsibility and going through public policies designed to confront the epidemic on a societal level. She used the example of tobacco usage to show how a concerted effort on many fronts can effectively reduce harmful behavior. She said that encouraging physical activity is not only a highly effective way to reduce obesity, but that by doing so, other physical and psychological health problems are simultaneously addressed.

The meeting closed with a presentation by a parent volunteer from the group Save Our Summers. Her information showed that when the school calendar is moved to earlier in August, it also has the effect of reducing economic activity in the state, particularly in the tourism industry. She said the group does not seek to reduce the number of educational days in a school calendar but does seek to have a statewide uniform school opening date that begins after Labor Day. She said several other states have done this and have seen increased economic activity. She said the group is new to Kentucky but is working with other groups throughout the nation to gather information on this initiative.

Subcommittee Activity

Task Force on Economic Development

The Task Force on Economic Development did not meet during the 2006 Interim.

Report of the 2006 Interim Joint Committee on Education

Sen. Ken Winters, Co-Chair
Rep. Frank Rasche, Co-Chair

Sen. Walter Blevins, Jr.	Rep. Bill Farmer
Sen. Brett Guthrie	Rep. Derrick Graham
Sen. Alice Kerr	Rep. Mary Harper
Sen. Vernie McGaha	Rep. Mary Lou Marzian
Sen. Gerald A. Neal	Rep. Reginald K. Meeks
Sen. R.J. Palmer II	Rep. Charles Miller
Sen. Tim Shaughnessy	Rep. Harry Moberly, Jr.
Sen. Gary Tapp	Rep. Russ Mobley
Sen. Johnny Ray Turner	Rep. Rick G. Nelson
Sen. Jack Westwood	Rep. Darryl T. Owens
Sen. David L. Williams	Rep. Tom Riner
Rep. Mike Cherry	Rep. Terry Shelton
Rep. Hubert Collins	Rep. Charles L. Siler
Rep. Jim DeCesare	Rep. Arnold Simpson
Rep. Jon Draud	Rep. Kathy W. Stein
Rep. Ted “Teddy” Edmonds	Rep. Ron Weston
Rep. C.B. Embry, Jr.	Rep. Addia Wuchner

LRC Staff: Audrey Carr, Jonathan Lowe, Janet Stevens, Sandy Deaton, Lisa Moore,
JoAnn Paulin, and Janet Oliver

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

Subcommittee Organization and Membership**Subcommittee on Assistance to Schools****Sen. Jack Westwood, Co-Chair****Rep. Frank Rasche, Co-Chair**

Sen. Walter Blevins

Sen. Brett Guthrie

Sen. Gary Tapp

Rep. Derrick Graham

Rep. Harry Moberly, Jr.

Rep. Charles Siler

Sen. Ken Winters, ex officio

LRC Staff: Audrey Carr, Janet Stevens, and Janet Oliver

Subcommittee on Elementary and Secondary Education**Sen. Vernie McGaha, Co-Chair****Rep. Ted “Teddy” Edmonds, Co-Chair**

Sen. Walter Blevins

Sen. Brett Guthrie

Sen. Jack Westwood

Rep. Mike Cherry

Rep. Hubert Collins

Rep. Jon Draud

Rep. Derrick Graham

Rep. Harry Moberly, Jr.

Rep. Rick Nelson

Rep. Darryl Owens

Rep. Terry Shelton

Rep. Arnold Simpson

Rep. Ron Weston

Sen. Ken Winters, ex officio

Rep. Frank Rasche, ex officio

LRC Staff: Janet Stevens, JoAnn Paulin, and Janet Oliver

Subcommittee on Postsecondary Education

Sen. David L. Williams, Co-Chair
Rep. Mary Lou Marzian, Co-Chair

Sen. Alice Forgy Kerr
Sen. Gerald Neal
Sen. R.J. Palmer II
Sen. Gary Tapp
Sen. Johnny Ray Turner
Rep. Jim DeCesare
Rep. C.B. Embry
Rep. Bill Farmer

Rep. Mary Harper
Rep. Reginald Meeks
Rep. Charles Miller
Rep. Russ Mobley
Rep. Tom Riner
Rep. Charles Siler
Rep. Kathy Stein
Rep. Addia Wuchner

Sen. Ken Winters, ex officio
Rep. Frank Rasche, ex officio

LRC Staff: Jonathan Lowe, Sandy Deaton, and Lisa Moore

Interim Joint Committee on Education

Jurisdiction: Matters pertaining to elementary, secondary, and postsecondary education; the Kentucky Board of 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 rehabilitation; state universities and colleges; community colleges; regional education; educational television.

Committee Activity

The Interim Joint Committee on Education met six times during the 2006 Interim.

The committee was organized into three subcommittees: Elementary and Secondary Education, Postsecondary Education, and Assistance to Schools. Following is a summary of activity of the full committee and each subcommittee.

The committee held four meetings in Frankfort and made two site visits. During the Frankfort meetings, members heard a presentation by the commissioner of education regarding the implementation strategies for conducting several legislatively mandated studies relating to elementary and secondary education; a progress report toward the goals for postsecondary education from staff of the Council on Postsecondary Education; a presentation by the commissioner of education regarding adequate yearly progress of schools, including the 2006 school and district results under the No Child Left Behind Act of 2001; a report of the School Facilities Task Force; a report of the Urgent Needs Advisory Committee; an update on student financial aid programs in Kentucky, and findings from a recent study of the Kentucky Educational Excellence Scholarship program; a preliminary report from the Kentucky Department of Education's Study of School Calendars and Use of Time; a description of mathematics initiatives in Kentucky; and a presentation from parents who are members of Save Our Summers.

Site visits to the Kentucky Community and Technical College System (KCTCS) headquarters in Versailles and to northern Kentucky provided committee members the opportunity to view innovations to meet specific local needs. During the site visit to KCTCS, members had an opportunity to see the renovation of a local factory into the KCTCS headquarters. The KCTCS president described the strategic plan and outlined several accomplishments. Other agenda items included a presentation by the commissioner of education regarding the 2005 Commonwealth Accountability Testing System (CATS) Results; a report of the Cradle to the College Commission presented by the Secretary of State and the State Treasurer; and a description of the KY Jump\$tart program presented by program representatives.

Members visited Covington Independent Schools where they learned from the superintendent and members of the administrative staff many of the challenges that face

educators in a high-poverty, urban district. Members also heard a presentation from the Northern Kentucky Chamber of Commerce regarding its legislative agenda for education.

In performing its statutory legislative oversight responsibilities, the committee reviewed three administrative regulations.

Subcommittee Activity

Subcommittee on Assistance to Schools

The subcommittee met five times. At its first meeting, the subcommittee established study questions and a work plan for conducting the study of assistance and interventions to schools not reaching their student achievement goals under the federal No Child Left Behind Act and under the state's Commonwealth Accountability Testing System. Members were provided background materials consisting of an annotated bibliography of research relating to assistance to schools, a discussion of requirements for assistance under the federal and the state accountability systems, a historical summary of legislative actions relating to assistance and intervention programs, and a glossary of terms.

At its second meeting, the subcommittee heard a presentation by a nationally recognized educator and author whose work spans years of studying, teaching, researching, and consulting on how to help at-risk youth, school improvement, alternative education, and how to assist and intervene in low-performing, high-poverty schools. He shared research findings and observations of long-term strategies that work and the importance of comprehensive school-based initiatives and long-term commitment to serve students who lack the resources and supports that children from middle-income and wealthy families naturally have.

At its third meeting, the subcommittee heard testimony from three principals, each representing a different organizational structure. The principals identified specific challenges in serving all students in their schools and meeting accountability standards. Each outlined specific steps that had been taken to better serve their students; to focus on curriculum standards; to meet academic expectations; and to meet the social, physical, and emotional needs of the students.

The fourth meeting was a joint meeting with the Subcommittee on Elementary and Secondary Education. The meeting began with a tour of Ninth District Elementary School, a high-poverty, urban school in Covington; and continued with a tour of Walton Verona High School, a small more rural and less-diverse school. The meeting focused on the education challenges faced by independent school districts and on discussion of the research findings related to assistance and interventions in low-performing schools. Various educational entities and public policy groups provided recommendations and suggestions to be considered by the subcommittee.

The fifth meeting provided members opportunities to discuss various recommendations and to identify additional data and information that was needed by the subcommittee for its continued study of effective assistance and intervention strategies.

Subcommittee on Elementary and Secondary Education

The subcommittee met five times during the Interim. The first meeting included presentations by staff from the Kentucky Department of Education (KDE) Office of District Support Services and local school district personnel relating to the school breakfast and school lunch programs, the summer feeding program, and the inclusion of physical activity into the existing school day. Discussion centered around the changes districts are making to help in the fight of childhood obesity and how classroom teachers reinforce the school curriculum by getting students involved in physical activity.

The second meeting focused on secondary career and technical education, including a discussion of the dual enrollment programs offered through the Kentucky Community and Technical College System. The executive director of the Office of Career and Technical Education (OCTE) and the director of the Kentucky Department of Education Division of Secondary Career and Technical Education gave a progress report on the access and accountability of career and technical education in the state. They explained new programs and programs that have been expanded since 2004.

At the third meeting, the commissioner of the Kentucky High School Athletics Association (KHSAA) and staff discussed the roles, responsibilities, and organizational structure of the association, including how the KHSAA Board of Control and Delegates are selected. The requirements of member schools and current membership, including the number of public and nonpublic members, were explained. The realignment of the state's high school football program was discussed, along with issues regarding current playoff structures and the problems associated with territory or feeder school patterns. Representatives from both public and nonpublic schools gave their views as to how the public school/nonpublic school issues have been handled.

The fourth meeting focused on secondary career and technical education and involved a continuation of the presentation that began at the second subcommittee meeting. The OCTE executive director shared that the KY Tech system had received district accreditation from the Southern Association of Colleges and Schools, the first technical education system in the nation to receive this accreditation. The director of the KDE Division of Secondary Career and Technical Education explained how individual learning plans for students are constructed and updated so that they are always current. The director also shared information that had been reported by local school districts regarding dual credit and articulated credit, including both KCTCS and four-year university data. KCTCS staff continued the discussion of dual credit programs, providing information related to program offerings, individual and statewide agreements in effect, numbers of schools and students participating, and the perceived barriers to the programs. A school district superintendent spoke briefly about the lack of opportunity for students enrolled in small districts to attend technology centers. He

explained how students in some districts must travel to a center located outside their home district, causing instructional time to be lost and travel expenses to be incurred.

The fifth meeting was a joint meeting with the Subcommittee on Assistance to Schools as described above.

Subcommittee on Postsecondary Education

The subcommittee met four times during the 2006 Interim. At the August meeting, the executive director of the Education Professional Standards Board gave a presentation regarding postsecondary teacher preparation programs in Kentucky and an initiative to significantly revise and improve the training of principals and other educational leaders.

The September meeting focused on strategic planning at Kentucky postsecondary institutions and the alignment of institutional plans with Kentucky's Public Agenda for Postsecondary Education. The subcommittee heard from the presidents of the University of Kentucky, Western Kentucky University, and Northern Kentucky University, and the executive director of the Association of Independent Kentucky Colleges and Universities.

At the October meeting, the subcommittee discussed the interrelated topics of the increasing the number of Kentuckians in the "engineering pipeline," new energy technologies, and economic development in Kentucky. Members heard a presentation by a representative of the Council on Postsecondary Education who described strategies to increase the number of students adequately prepared for, pursuing, and completing engineering degrees. Also, the director of the University of Kentucky Center for Applied Energy Research made a presentation regarding new energy technologies and Kentucky's role in their development and commercialization. Finally, a representative from the Kentucky Office of Energy Policy discussed the importance of these initiatives to future economic growth in the Commonwealth.

In November, the subcommittee heard a continuation of the discussion regarding postsecondary strategic planning from the presidents of Eastern Kentucky University, Kentucky State University, Morehead State University, and the University of Louisville. In addition, the UofL president made a presentation regarding plans underway to provide on-campus child care for faculty, staff, and students.

Report of the 2006 Special Subcommittee on Energy

Sen. Robert Stivers II, Co-Chair
Rep. Tanya Pullin, Co-Chair

Sen. Walter Blevins, Jr.
Sen. Charlie Borders
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Tom Jensen
Sen. Vernie McGaha
Sen. Jerry P. Rhoads
Sen. Katie Stine
Sen. Johnny Ray Turner
Rep. Royce W. Adams
Rep. Rocky Adkins
Rep. Eddie Ballard

Rep. Carolyn Belcher
Rep. James E. Bruce
Rep. Dwight D. Butler
Rep. Bob M. DeWeese
Rep. J.R. Gray
Rep. Thomas Kerr
Rep. Lonnie Napier
Rep. Rick G. Nelson
Rep. Fred Nesler
Rep. Tom Riner
Rep. Brandon D. Smith
Rep. Brent Yonts

LRC Staff: D. Todd Littlefield, Taylor Moore, and Susan Spoonamore

**Presented to the
Legislative Research Commission
and the
2007 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; hydroelectric and nuclear energy.

Committee Activity

During the 2006 Interim, the Special Subcommittee on Energy held four meetings.

The committee held its first meeting on June 16 in Frankfort. The committee held the public hearing and review of the block grant application for the federal fiscal year 2007 Low Income Home Energy Assistance Program (LIHEAP). The director of the Kentucky Geological Survey reported on the proposed site for the FutureGen project and on the current status of coal reserves in the Commonwealth. Representatives of the Kentucky Rural Energy Consortium reported on research projects that have been undertaken to develop responsible resource technologies in areas including ethanol, solar heat pipe systems, and biomass. The committee also heard a presentation from a University of Louisville professor of chemical engineering on advances in solar energy conversion.

The committee held its second meeting on September 15 in Frankfort. Representatives of the investor-owned electric utilities (Duke, E.On, and Kentucky Power) made a presentation on the future of electric generation in the United States. and the world. Steep cost increases are anticipated to pay for reducing carbon dioxide emissions, a recognized greenhouse gas. The subcommittee was introduced to the newly appointed executive director of the Kentucky Office of Energy Policy. She gave a brief overview of office activities and projects

On October 20, the committee held its third meeting in Lexington. The members toured the Center for Applied Energy Research and were briefed on many of the research projects being undertaken by the center toward developing advanced, value-added uses for coal. Members then heard a presentation from East Kentucky Power Cooperative's supervisor of natural resources and environmental communications. The cooperative uses its environmental personnel not only for compliance evaluations of its intended construction sites but also for numerous presentations to Kentucky schoolchildren on biodiversity and the types of animals found within the Commonwealth. The executive director of the Kentucky Clean Fuels Coalition updated the members on important developments in the availability and adoption of biofuels such as ethanol and biodiesel.

The committee held its fourth meeting on November 17 in Catlettsburg. The committee toured Marathon's refinery and marine repair terminal. A presentation from the

refinery manager highlighted the importance of the Catlettsburg refinery to maintaining supplies of gasoline and other petroleum by-products both in Kentucky and in the region.

The committee did not take action on any prefiled bills.

**Report of the 2006
Interim Joint Committee on
Health and Welfare**

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

Sen. Charlie Borders
Sen. Tom Buford
Sen. Perry Clark
Sen. Denise Harper Angel
Sen. Alice Kerr
Sen. Joey Pendleton
Sen. Richard “Dick” Roeding
Sen. Ernesto Scorsone
Sen. Dan Seum
Sen. Katie Stine
Sen. Johnny Ray Turner
Rep. John A. Arnold, Jr.
Rep. Scott W. Brinkman
Rep. James R. Comer, Jr.

Rep. Robert R. Damron
Rep. Bob M. DeWeese
Rep. David Floyd
Rep. Joni L. Jenkins
Rep. Mary Lou Marzian
Rep. Stephen R. Nunn
Rep. Darryl T. Owens
Rep. Ruth Ann Palumbo
Rep. Jon David Reinhardt
Rep. Ancel Smith
Rep. Kathy W. Stein
Rep. Susan Westrom
Rep. Addia Wuchner

LRC Staff: Murray Wood, CSA; Barbara Baker, Eric Clark, Miriam Fordham, DeeAnn Mansfield, Ben Payne, Gina Rigsby, Cindy Smith, and Michelle Woods

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

Subcommittee Organization and Membership**Subcommittee on Aging, Disabilities, Independent Living, and Long-term Care****Sen. Richard “Dick” Roeding, Co-Chair****Rep. Kathy Stein, Co-Chair**

Sen. Perry Clark
Sen. Denise Harper Angel
Sen. Dan Seum
Sen. Johnny Ray Turner

Rep. James Comer
Rep. David Floyd
Rep. Stephen R. Nunn
Rep. Ancel Smith

Sen. Julie Denton, ex officio

Rep. Tom Burch, ex officio

LRC Staff: Murray Wood, Miriam Fordham, and Marlene Rutherford

Subcommittee on Families and Children**Sen. Katie Stine, Co-Chair****Rep. Tom Burch, Co-Chair**

Sen. Charlie Borders
Sen. Joey Pendleton
Sen. Ernesto Scorsone
Rep. John Arnold
Rep. Scott Brinkman

Rep. Bob Damron
Rep. Darryl T. Owens
Rep. Jon David Reinhardt
Rep. Addia Wuchner

Sen. Julie Denton, ex officio

LRC Staff: DeeAnn Mansfield, Ben Payne, and Cindy Smith

Subcommittee on Women’s Health**Sen. Julie Denton, Co-Chair****Rep. Mary Lou Marzian, Co-Chair**

Sen. Tom Buford
Sen. Alice Kerr
Rep. Bob M. DeWeese

Rep. Joni L. Jenkins
Rep. Ruth Ann Palumbo
Rep. Susan Westrom

Sen. Julie Denton, ex officio

Rep. Tom Burch, ex officio

LRC Staff: Barbara Baker, Gina Rigsby, and Michelle Woods

Interim Joint Committee on Health and Welfare

Jurisdiction: Matters pertaining to human development, health, and welfare; delivery of health services; fire prevention and protection; support of dependents; garbage and refuse disposal; public assistance; child welfare; adoptions; assistance to children; 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; food, drugs, and poisons; restaurants and trailer park regulations; sanitation plants; sanitation districts; alcoholism; health professions; physicians, osteopaths, and podiatrists; chiropractors; dentists and dental specialists; nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists; ophthalmic dispensers; physical therapists.

Committee Activity

During the 2006 Interim, the Interim Joint Committee on Health and Welfare held six meetings, including one out-of-town meeting in Louisville. The committee was organized into three subcommittees: Aging, Disabilities, Independent Living, and Long-term Care; Families and Children; and Women's Health.

Major Issues Considered by the Committee

Children and Family Issues

Foster Care and Adoption

The committee heard testimony on foster care and adoption from the undersecretary for Children and Family Services and the commissioner of the Department for Community Based Services (DCBS), both in the Cabinet for Health and Family Services, and from parents and child advocates. The three top reasons for a child to be removed from his or her home are substance abuse, physical or mental abuse, and neglect. Approximately 80 percent of the child welfare cases are related to substance abuse. The undersecretary said that 7.8 percent of the children removed from homes are subsequently adopted, 54 percent are reunited with parents, and 31 percent are reunified with family members. The federal Adoption and Safe Families Act (ASFA) builds in safeguards and protections for parental rights, and the primary goal is to ensure the child's safety and expedite permanence for children in the child welfare system. Cabinet officials said there is no specific financial incentive to place children for adoption, but the federal government does award bonuses to states to meet or exceed stated goals for the number of completed adoptions. In 2005, Kentucky received \$1 million in bonus funds, which was reinvested into the adoption system for adoption subsidies and postadoption services. In 2005, the cabinet spent \$37 million in adoption subsidies, and the amount is projected to be higher in 2006. Of the 902 children adopted in federal fiscal year 2005, the average age of a child placed in out-of-home care is between 9 and 10. Children spent an average of 38.2 months in care prior to adoption. There

are approximately 7,000 children in out-of-home care and of those, 1,256 children were legally available for adoption following the termination of parental rights.

The Child and Family Services Review (CFSR) is conducted by the federal government to ensure compliance with the ASFA and other federal child welfare standards. A Program Improvement Plan was developed after the 2003 CFSR was completed in November 2005. The national Council on Accreditation provides objective statewide reviews to determine if an agency meets national standards of organizational strength and quality of services. The cabinet achieved accreditation in 2001 and is currently undergoing review for reaccreditation. The department expects to learn whether it achieved accreditation by the end of December 2006. The Citizen Foster Care Review Boards, administered by the Administrative Office of the Courts, review random out-of-home care cases and make recommendations for improvement. The Kentucky Citizens Review Panels for Child Protective Services, a requirement of the federal Child Abuse Prevention and Treatment Act, meet quarterly to review policies and procedures in the areas of foster care, child protection, and adoption. The cabinet conducts internal continuous quality improvement where random cases are reviewed each month in a three-tier review. Improvements and/or corrections are discussed with field staff. Individuals found or substantiated by the cabinet to have abused or neglected a child may file an appeal of the finding through an administrative hearing. Individuals who have had benefits denied, suspended, reduced, modified, or terminated may also request an administrative hearing. Cabinet measures taken to improve the process are to educate staff regarding adherence to policies, procedures, and expectations regarding case work; to institute an anonymous process via the intranet to enable caseworkers to request a specific case review by specialists; and to implement the DCBS modernization initiative. The Casey Foundation is funding a pilot project in Jefferson County to address the disproportionate number of minority children in foster care.

The National Institute on Children, Youth and Families and Kentucky Youth Advocates published a report titled “The Other Kentucky Lottery” that concluded that services are inconsistent across the state. Parents, attorneys, and advocates stated that low-income individuals are not adequately represented by court-appointed attorneys because the attorneys do little research and often sign off on the cabinet’s recommendations without questions. It was suggested that changes need to be made to the Juvenile Code to allow judges to have jurisdiction over the care, placement, or treatment of children once they are committed to the cabinet. The Administrative Office of the Courts provides training for guardians ad litem. Approximately 34.2 percent of all children are removed because of dependency and 43 percent are removed for neglect. The state’s definition of neglect does not take into consideration that a parent is simply poor and not neglectful. Families brought into the system can be overwhelmed with unrealistic case plans that are not individualized and include too many court-ordered services. The commissioner said the department works with community partners to provide needed services to parents and families. The department officials were not aware of any study that compared outcomes for middle-income families versus lower-income families. The committee discussed caseload averages, and the commissioner said that in some areas, social workers carry more than the recommended 17 cases per worker. The department plans to reduce the caseloads through modernization and a plan to realign staff for greater efficiencies and best practices.

In discussion about the lack of safety net services for children who age out of foster care, the deputy undersecretary said that federal Chafee Independent Living Funds were limited but provide financial assistance to some children. The 2006-2008 executive budget included \$1 million each year for foster youth transitional assistance.

Social Worker Safety

With the recent death of a social services aide, worker safety has been pushed to the forefront. The DCBS identified worker safety, substance abuse prevention, leadership, and supervisory training as priorities. An advisory group was established, and all department staff have the opportunity to submit recommendations to the workgroup to improve policies and procedures related to employee safety. The workgroup will submit recommendations to the cabinet secretary and the Governor by the end of November. Department caseworkers identified that assessment of the office environment, establishing safety officers and visitation centers, instituting first alert technology, having instant access to criminal records, establishing an incident tracking database, and decreasing caseloads as items for consideration. The commissioner stated that the department would work with members of the General Assembly in the 2007 Regular Session to enact the “Boni Bill.”

The Family Place

The president and a board member of The Family Place presented information about child abuse treatment services. The program was established in 1977 and serves as a model program to help end family violence. The Family Place has helped nearly 30,000 children and family members in the community through specialized child care for children who have been abused or affected by family violence, long-term mental health treatment for child sexual abuse within the family, and supervision for court-ordered visits between children and their noncustodial parent. The agency is funded by a variety of sources including rental and program income, individual donations, special events, grants, the federal food program, and contracts. The 2006 General Assembly appropriated \$200,000 for The Family Place for 2007.

Welfare Fraud

Officials from the cabinet and the Office of Attorney General (OAG) provided an update on welfare fraud. The DCBS family support programs administer approximately \$4.5 billion in food stamps, Medicaid, and Kentucky Transitional Assistance Program (KTAP) cash benefits annually. The OAG and the Office of the Auditor of Public Accounts worked together to look at records from an expanded audit of the Annual Single Statewide Audit of Kentucky conducted by the Auditor’s office. A random sample of cases revealed approximately 7,400 payments made to deceased individuals. The 2006 Franklin County Grand Jury Investigative Report on Welfare Fraud reported that KTAP and food stamp payments were being made to deceased individuals, mailed to addresses of cabinet employees, and mailed to addresses outside Kentucky. As of November 9, 2006, 6 of the 10 individuals indicted on 136 felony counts have plead guilty. The other four cases will be tried

in the Franklin County Circuit Court. During state fiscal year 2005, \$2.2 million was adjudicated; and for FY 2006, the amount was \$791,000.

The average number of cases per family support worker is now approximately 445. An increase of about 70 workers is expected by the end of 2006. In response to the 2005 Annual Single Statewide Audit report and the 2006 follow-up, the cabinet initiated control procedures to improve data matching with vital statistics records and other state information systems and made changes to strengthen oversight and case supervision. In 2005, the Office of Inspector General implemented the Determining Eligibility Through Extensive Review program, established the Medicaid Provider Fraud Unit, and expanded its staff. The Kentucky Access Accuracy and Accountability Project was created to integrate and update the Kentucky Automated Management and Eligibility System and its dependent systems.

Health Care Issues

Status of Neonatal Hospital Services

The director of the Department for Public Health of the Cabinet for Health and Family Services testified that neonatology is a relatively new specialty that has developed since the 1960s. By the 1970s, there were neonatal units nationwide, but there was no organized system to provide appropriate care to infants close to where they lived. The 1978 General Assembly enacted legislation and allocated \$9.8 million to create a regional, stratified system of perinatal care administered by the Department of Public Health. The January 2006 revisions to the State Health Plan and the Certificate of Need process were less restrictive for Level II nurseries with the goal of improving access to neonatal care. Currently, there are 217 Level II licensed beds and 117 Level III licensed beds in Kentucky, with six Level II applications pending.

e-Health Information

The co-chair of the Kentucky e-Health Network Board and the chief policy advisor of the Office of Health Policy in the Cabinet for Health and Family Services provided an update on 2005 Senate Bill 2 that includes the Health Care Infrastructure Authority. Short-term projects include a privacy and security project, e-prescribing partnership grants, e-health payor collaboration, and a fall 2006 e-health summit. An advisory group of professionals knowledgeable about e-health will develop recommendations and a business plan. Federal guidelines specifying national standards have not yet been issued. The Web-based enhanced Kentucky All Schedule Prescription Electronic Reporting system should be operational within the next six months.

Consumer Access to Health Services Data

The executive director of the Office of Health Policy in the Cabinet for Health and Family Services stated that health care costs take a large percentage of an individual's income; and are an increasing percentage of local, state, and federal expenditures. Consumers, researchers, and others have little or no access to information on cost, quality,

and outcomes of medical procedures. It was stated that it is unfair to compare health care services to other commodities or goods purchased in a free market.

The cabinet collects de-identified inpatient records quarterly from all facilities statewide. By November 2006, the cabinet will have information available on cost, volume, and average length of stay for the top 25 elective procedures by facility, comparable by facility, and by state median and average. Data on quality of health care services is filtered by standards specified by the federal Agency for Healthcare Research and Quality to assure comparability of information based on inpatient quality, prevention quality, and patient indicators.

Role of Pharmacists in the Health Care System

The committee heard testimony on the role of pharmacists in the Veterans Administration health care system, in disease management, in hospital settings, in immunizations, and in bio-emergencies.

Oakwood

The committee heard testimony on Oakwood, an intermediate care facility for individuals with mental retardation or developmental disorders, from the secretary of the Cabinet for Health and Family Services, the president of the Bluegrass Regional Mental Health and Mental Retardation Board, representatives from Parents-Relatives of Oakwood Facility (PROOF), and other family members of Oakwood residents. The facility has received numerous citations, violations, and criminal charges against staff for abuse of patients. A significant number of the 22 citations issued involve residents who have been placed there by court order over the past two years. A civil rights settlement agreement reached in 2001 between the U.S. Department of Justice and the cabinet gives the United States District Court jurisdiction over Oakwood improvement plans. The cabinet submitted a strategic action plan to the Centers for Medicare and Medicaid Services and the Department of Justice on September 22, 2006. Parents and family members expressed concern that the facility would be closed and that community placements were not appropriate for some Oakwood residents, while some advocates argued for the complete closure of the facility. The cabinet is responsible for monitoring the community placement of Oakwood residents. Approximately 80 individuals are waiting to transition to another placement. The average time to transition to a community placement is six months.

The management contract with Liberty Healthcare ended in October 2006 and was replaced by a contract with Bluegrass Regional Mental Health and Mental Retardation Board on November 1, 2006. The new contract transfers all Oakwood state employees to Bluegrass.

Consumer Advocacy Network

Advocates and consumers of mental health services testified on the services offered by the statewide advocacy network and on the effectiveness of peer support services. Ninety-

seven percent of the people who received peer support services were not re-hospitalized for at least two years.

Medicaid

Update

The secretary of the Cabinet for Health and Family Services and the commissioner of the Department for Medicaid Services testified that instead of submitting a statewide waiver proposal to implement program changes, the department is amending its Medicaid State Health Plan under the federal Deficit Reduction Act of 2005. This approach allows more flexibility without demonstrating budget neutrality required for a waiver proposal. The KyHealth Choices benefit plans were implemented July 1, 2006. Kentucky was the first state to receive permission for comprehensive reform using the flexibility of the Act. The cabinet has been working for two years on the infrastructure necessary for these changes.

Benefit packages were designed to reflect the needs of specific populations. Families with children have a specified set of services, as do persons needing residential care, and those needing nursing home care. A change in federal policy will allow all providers, not just pharmacies, to deny services to beneficiaries who do not make required co-payments. Medicaid will provide annual inflationary adjustments to the nursing home patient payment rates. Many member groups do not have co-payments and some have \$1 co-pay, \$2 co-pay, and a maximum of \$20 co-pay for nonpreferred prescription drugs. New policies require an annual out-of-pocket co-pay maximum of \$225 for pharmacy and an additional \$225 for health services. Health professionals said that some cancer and biologic drugs are administered through the physician's office instead of purchased through a pharmacy. The office visit to obtain these medications would be \$2 for the individual.

Advocates expressed concern about recipient's abilities to make the co-pays and fear they may sacrifice preventive care and early detection.

Passport Health Plan

The executive vice president of the University of Louisville and the chairman of the board and the president of Passport Health Plan provided an update on the Passport Health Plan. Passport Health Plan was recognized as one of the top 25 health care plans in the nation and is the only Medicaid health plan in Region 4 to achieve "America's Best Health Plan" badge as reported in U.S. News & World Report's "NCQA America's Best Health Plans 2005." Region 4 includes Alabama, Georgia, Mississippi, North Carolina, South Carolina, Florida, Tennessee, and Kentucky. The rankings are based on clinical performance, member satisfaction, and the National Commission on Quality Assurance Accreditation. The federal Centers for Medicare and Medicaid Services' administrator stated "The Kentucky Partnership plan is among the highest performing Medicaid managed care demonstrations in the country."

Under the federal Medicare Modernization Act, Passport applied to become a Medicare Advantage Special Needs Plan for its aged, blind, and disabled members who are also eligible for Medicare. As a Medicare Advantage Special Needs Plan, Passport Advantage is able to manage both Medicare and Medicaid benefits and provide better coordinated care. Approximately 10,000 Passport Health Plan members are eligible to participate in the Special Needs Plan. Members are allowed to receive care from out-of-network providers, as long as the provider participates with Medicare; however, since Passport Advantage is a provider-sponsored organization, contracted providers receive a higher reimbursement. There is added coordination of behavioral health and skilled nursing facility benefits. Targeted interventions are based on a member's health risks and care needs.

Passport's 16 counties are exempt from the changes in KyHealth Choices. Passport has worked with providers on a preferred drug list for eight years, and as a result, the pharmacy cost trend is 0 to 3 percent. The trend is low because of the outreach and education for providers, formulary and rebate programs, use of personal data assistants that identify the preferred drug while the physician is with the patient, and counter detailing with provider offices to identify duplication of medications that could be harmful to patients.

Public Health

Cervical Cancer

The committee heard testimony on cervical cancer by a specialist in adolescent medicine and regional medical director of Merck & Co., Inc. There are 15 to 20 types of human papillomavirus (HPV) that have been identified as cancer-inducing viruses, and 4 types account for 70 percent of all cervical cancers. There are approximately 3,700 deaths per year due to cervical cancer. Statistics have shown that by age 50, 80 percent of women have been infected with HPV. Merck & Co. Inc. developed Gardasil, which is the only known cervical cancer vaccine. The drug was researched in Kentucky and targets the four most-prevalent types of cervical cancer.

The deputy commissioner of the Department for Public Health in the Cabinet for Health and Family Services stated that starting in December 2006, Medicaid-eligible recipients will be covered for the vaccine under the federal Vaccines for Children Program. The general public would have to pay \$270 for the three-shot series. State funding is needed for the state match to provide the vaccine to Medicaid recipients between the ages of 19 and 26 and for uninsured females. Insurance companies do not restrict the vaccine by age and are required to cover the series of shots. This discussion was also an agenda item of the Subcommittee on Women's Health.

Cancer Action Plan

The Cancer Action Plan for Kentucky is a practical, working document addressing four main areas along the cancer continuum: prevention, early detection, treatment and care, and quality of life. Each area has major goals, objectives, and suggested strategies to implement in regions across the state. This plan is evaluated and updated on a regular basis

by the Kentucky Cancer Consortium. The consortium was formed in 1999 with a partnership between the Department of Public Health and the Kentucky Cancer Program. The consortium is made up of three entities: Regional Cancer Partnerships, a Steering Committee, and Ad Hoc Committees. The Regional Cancer Partnerships implement cancer action plan strategies at the local and regional level. The Steering Committee provides state-level leadership for the consortium. The Ad Hoc Committees/Coalitions implement strategies at the state level and are convened and dispersed as issues arise.

Problem Gambling and Responsible Gaming

The committee heard testimony on problem gambling and responsible gaming from the president and executive director of the Kentucky Council on Problem Gambling and from the treasurer of the National Council on Problem Gambling. The 2003 Legislative Research Commission Research Report No. 316, *Compulsive Gambling in Kentucky*, estimated there were approximately 15,000 compulsive gamblers and approximately 20,000 problem gamblers. Other studies estimate the annual social cost of each compulsive gambler at \$13,585 from crime and criminal justice activity, lost business productivity, unemployment, unemployment insurance, bankruptcy, illness, social services including counseling and treatment, and family costs from divorce and separation. Based on the LRC estimate of compulsive gamblers in Kentucky, the social cost of compulsive gambling in Kentucky is \$195 million per year.

Gaming industry market surveys indicate more than three-fourths of adult Kentuckians gamble in any given year. The Kentucky Council on Problem Gambling believes there are at least 25,000 compulsive gamblers in the state with an annual social cost of \$325 million. Spending at Kentucky's three legal gaming activities, the lottery, pari-mutuel horse racing, and charitable gaming, amounts to approximately \$2 billion annually. Kentucky residents spend approximately \$500 million annually at out-of-state casinos. Kentucky receives approximately \$200 million annually in revenue from legal gambling activities, yet dedicates no funding for compulsive gambling education, awareness, prevention, identification, treatment, or research. The LRC report noted an absence of clinicians trained to treat compulsive gamblers in most areas of the state. There are currently 12 certified problem gambling professionals in Kentucky.

Homelessness

A chief officer of the Kentucky Housing Corporation (KHC) discussed the Safe Havens and Recovery Kentucky programs. The Safe Havens program provides rapid re-housing and support services for victims of domestic violence, homeless families with children, and homeless families with persistent and severe mental illness. KHC has allocated \$10 million over two years to provide at least 2,000 housing vouchers for the Safe Havens program. The Recovery Kentucky program provides housing and supportive services to Kentuckians recovering from substance abuse. The Governor's 10-Year Plan to Prevent Homelessness has commitments to build 10 transitional housing facilities for the Recovery Kentucky program and building has begun on 7 of the 10 projects. Recovery Kentucky is funded by approximately \$4 million from the Governor's Office for Local Development,

approximately \$3 million from the Department of Corrections, and approximately \$2.5 million from Kentucky Housing Corporation. The KHC reported that funding for the Affordable Housing Trust Fund has increased with the passage 2006 House Bill 537 that designates a portion of fees collected by county clerks to the Affordable Housing Trust Fund. The additional resources will be used to provide more assisted housing units across the state.

A member of the Homeless and Housing Coalition of Kentucky and a member of the Metro Louisville Coalition for the Homeless spoke about the need for individual support services in addition to housing assistance. The homelessness prevention project authorized by 2004 House Bill 377 was implemented in Louisville with the Homeless Transitions two-year pilot project. The project involves extensive discharge planning for persons exiting from state-operated or supervised institutions such as corrections facilities, mental health facilities, and foster care programs.

Referred Block Grant Applications

Pursuant to KRS 45.353, the committee held legislative hearings on two block grant applications: 2007 Title V Maternal and Child Health and 2007 Substance Abuse Prevention and Treatment.

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee reviewed 50 administrative regulations upon referral from the Administrative Regulations Review Subcommittee under the review process established in KRS Chapter 13A. No administrative regulation was found deficient.

Referred Executive Orders

Pursuant to KRS 12.028, the committee held legislative hearings on one executive order upon referral from the Legislative Research Commission: 2006-693, relating to the expansion of the Telehealth Board.

Subcommittee Activity

Subcommittee on Aging, Disabilities, Independent Living, and Long-term Care

The Aging, Disabilities, Independent Living, and Long-term Care Subcommittee met four times during the 2005 Interim.

Aging Issues

The secretary of the Cabinet for Health and Family Services reported that Kentucky is one of the top 20 states with the largest increase in the aging population; ranks 27th in the number of individuals over 65 and by 2025, Kentucky will rank 14th; ranks 1st in the nation in mental disorders, poor oral health, disability level, and smoking for those over the age of 65;

ranks 5th in hypertension; ranks 6th in terms of leisure time inactivity; and ranks 4th for obesity. There are 10,500 individuals in Kentucky with mental retardation or developmental disability diagnosis living with a parent over the age of 65. These individuals are not currently in the Medicaid, mental health, or mental retardation service systems, and at some point in the future, they will likely be accessing services. These individuals are living longer, and a long-term living approach needs to be developed.

The secretary and the undersecretary for the Department for Human Services discussed the cabinet's Long-Term Living Initiative. Representatives from the Departments of Mental Health, Medicaid, and Public Health, and the Division of Aging are working together to create a single point of entry for individuals needing long-term care and long-term living services. The federal Deficit Reduction Act allows more flexibility for Medicaid services by permitting Medicaid funding to be used for community services for individuals who are at risk of going into a nursing or long-term care facility. The cabinet has made changes to the State Health Plan and the Certificate of Need criteria to address the growing senior population. The e-Health initiative will also have benefits for the aging population.

The director of the Graduate Center for Gerontology at the University of Kentucky (UK) gave an overview of the Kentucky Elder Readiness Initiative (KERI). KERI is a collaboration among the Division of Aging Services, the 15 area development districts, and the UK Graduate Center. The initiative began with public forums and focus groups across the state to determine whether state government is ready for the growing baby boomer population and to foster statewide awareness, dialogue, and insight into the challenges and opportunities posed by the growing aging population. In Kentucky, there are 1.2 million baby boomers representing 30 percent of the state's population. This population is healthier, more educated, more involved in diversity, more politically powerful, and is more demanding of service. KERI reported the following community concerns: employment and the pending retirement of a large segment of the population; transportation access, availability, and costs, especially in the rural areas; affordable housing suited to the elderly, environmental design, and sidewalks; public services that may be affected by decreasing local revenues as this population takes advantage of exemption from property taxes; and faith-based organizations and churches that may be able to contribute. Phase II of the initiative involves conducting statewide surveys for more in-depth responses and developing a statewide resource network. An important aspect of the initiative is that solutions will come from communities working with government agencies.

The cabinet has re-activated the Kentucky Institute of Aging that will serve as a policy advisory group to the secretary of the Cabinet for Health and Family Services. Phase II of the Get Healthy Kentucky initiative will be implemented soon to encourage the senior population to become more active physically.

A representative from the Division of Aging Services discussed the Grandparent Assistance Program, part of the National Family Caregiver Support Program administered through the area agencies on aging. The program offers assistance for caregivers caring for someone over the age of 60 or with a diagnosis of Alzheimer's Disease or related dementia, and offers respite and other support services. The Grandparent Assistance Program is

included in the Kentucky Caregiver Program and will provide assistance to grandparents of any age who care for a grandchild age 18 or younger. The only stipulation to the program is that the grandparents cannot be receiving financial assistance from the Kinship Care program and their income cannot exceed 150 percent of the federal poverty level.

Representatives of the University of Kentucky College of Social Work described the Project AGE grant. Project AGE is a part of a national effort of the Practicum Partnership Program and is funded by the John A. Hartford Foundation and administered by the Social Work Leadership Institute of the New York Academy of Medicine. The University of Kentucky College of Social Work is one of 41 funded projects that will train leaders in the field of geriatric social work. The goal of Project AGE is to attract and recruit well-qualified master's of social work (MSW) students to the field of aging by providing stipends for education. Project AGE intends to train 24 students over a three- year period beginning on the Lexington campus in the first year and expand to the Morehead and southeastern Kentucky areas in the second and third years. Each second-year MSW student selected for the project will receive a \$3,000 stipend for a year-long placement and will have paid registration to the Sanders Brown Summer Series on Aging.

The vice chair of the Special Advisory Commission of Senior Citizens gave a brief overview of the commission, established in 1977 by the Legislative Research Commission and composed of various organizations to provide input on issues affecting senior citizens. Chairpersons of two subcommittees presented the commission's recommendations for consideration by the 2007 General Assembly. The Health and Human Services Subcommittee recommends establishing a "Golden Alert System" similar to the Amber Alert System to notify citizens when a mentally or physically impaired adult age 18 or older is reported missing from home, from a facility, or from the care of another person; prohibiting the use of a cell phone while operating a motor vehicle; and requiring 24 hours of annual geriatric training, including dementia training, for employees of licensed or certified facilities that provide care to seniors. The Taxation Subcommittee recommends legislation establishing an individual income tax credit for individuals who care for the elderly in the elderly person's home or in the caregiver's home based on a sliding scale according to the caregiver's adjusted gross income; and requiring a Legislative Research Commission study to look at available funding sources for senior services, including a local property tax levy.

Disabilities

The commissioner of the Department for Medicaid Services discussed the implementation of the consumer directed option (CDO) for home- and community-based services, per 2005 House Bill 116. CDO is an alternative service delivery method that allows individuals to hire, train, and fire their own attendants, including family members, but not spouses, and other providers for needed nonmedical services. Individuals enrolled in CDO will work with area agencies on aging (AAAs) within the area development districts (ADDs) as service brokers and fiscal intermediaries to assist with planning and making payments for services. The department will begin CDO as a pilot and determine if further changes are needed. The department has responsibility to monitor services and payments to prevent abuse and fraud of this program. The department estimates about 400 persons will enroll in CDO in

the first year. The subcommittee asked for ongoing information at each meeting on the number of participants enrolled, applications accepted and denied, waiting lists, types of services provided, and specific information regarding persons in the Supports for Community Living Program and the acquired brain injury waiver program. The AAAs will track the real cost of the services or supplies. The expenditure pattern of the individual will be monitored, and the individual will be counseled if it appears he or she is on track to run out of money. Concerns were expressed that the AAAs had little experience to administer CDO, particularly with the mentally retarded/developmentally disabled (MR/DD) and the acquired brain injury populations, and that training and preparation for the ADDS and AAAs was insufficient. The department is formulating a technical assistance team of department staff, advocates, service providers, and consumers to address implementation issues.

The program manager for the Aging and Disability Resource Center (ADRC) in the Northern Kentucky ADD updated the subcommittee on the ADRC initiative. ADRC is funded by a three-year federal demonstration grant awarded in the fall of 2005 to the Cabinet for Health and Family Services' Division of Aging Services. The ADRC will provide referrals to agencies and other services and assist individuals in navigating the system. The pilot ADRC will serve an eight-county region of the Northern Kentucky ADD and by the end of 2006, adult individuals with MR/DD will be included. The pilot site will become an operational call center on September 25, and services will be available by telephone, e-mail, and face-to-face interaction. The electronic database will be shared through the state and eventually accessible to the general public. The project is being monitored and evaluated by the Interdisciplinary Human Development Institute of the University of Kentucky.

Long-term Care

The subcommittee heard legislative recommendations from the executive director of Kentuckians for Nursing Home Reform. The top priority is legislation to address minimum staffing ratios for nursing homes. It was reported that in fiscal year 2005, Kentucky nursing homes were paid almost \$650 million in state and federal combined Medicaid reimbursements, while a federal survey indicated that 90 percent of the nursing homes in the U.S. did not have adequate staff. It was suggested that staffing ratios should be included in the price-based reimbursement system and used as guidelines to determine if a facility meets the requirements for staffing regulation. Recommendations for staffing ratios are one aide for every 8 residents on the first shift, one aide for every 10 residents on the second shift, and, one aide for every 15 residents on the third shift. Other recommendations include the strengthening of 2006 Senate Bill 141 to include penalties for anyone who tips off a nursing home about a pending inspection; strengthening current law to mandate a background check for all employees of a nursing home; mandating random drug testing of all nursing home employees; mandating that the state notify a long-term care facility when a convicted sex offender resides in a nursing home; requiring the cabinet to immediately survey all long-term care facilities for sprinkler fire protection systems and advise all facilities of the requirement to notify prospective residents of inadequate fire protection systems in advance; requiring the public posting of nursing home inspections by the cabinet; stopping the abusive use of power of attorney per 2006 House Bill 300; and requiring all ombudsman positions to be full-time

positions, requiring one ombudsman for every 2,000 nursing home beds, and placing the position of state ombudsman under the merit system.

The administrator of the Thomson-Hood Veterans Center in Wilmore and the executive director of the Kentucky Department for Veterans Affairs discussed the three state-run veterans nursing homes in Kentucky. These are state agencies and receive state and federal funding as well as payment from the residents. The Thomson-Hood Veterans Center opened in 1991 and serves Kentucky veterans who receive a discharge other than dishonorable. The cost to residents is a maximum of \$3,100 per month, which covers all services including medical, nursing, nutrition, physical therapy, occupational therapy, speech therapy, social services, pharmacy, recreational therapy, housekeeping, and laundry. Regulations specifying the maximum charge and the appeals process have been filed with LRC. Employee daycare services are also offered seven days a week at below- market cost. The center maintains a staff of physicians; nurse practitioners; registered nurses; licensed practical nurses; certified medication aides; certified nursing assistants; registered dietitians; physical, speech, recreational, and occupational therapists; social workers; and pharmacists. The center also employs support staff for laundry, housekeeping, maintenance, medical records, security, daycare, and clerical staff. The staff turnover rate at Thomson-Hood is about 6 percent.

All of the veterans nursing facilities have annual inspections by the U.S. Department of Veterans Affairs and the Office of Inspector General. The facilities do not accept Medicare or Medicaid funding. The department filed an application for funding for a new 160-bed facility in the Louisville or Hardin County area. The Hanson Facility has a waiting list of about 50 veterans and specializes in Alzheimer's Disease and special-care residents.

Subcommittee on Families and Children

The Subcommittee on Families and Children met four times during the 2006 Interim.

Foster Care and Adoption

The subcommittee heard an update on the Governor's Blue Ribbon Adoption Panel, which is charged with reviewing the processes and current practices that lead to termination of parental rights and adoption of children in the child welfare system.

The undersecretary for Children and Family Services presented information on adoptions and race in Kentucky and testified that African American children in Kentucky are disproportionately represented in the child welfare system as compared to white children by a factor of 2.5. This is a national problem and Kentucky is among the states with high, but not extreme, disproportion. The cabinet is taking steps to address this problem, including increasing cultural diversity training for social service workers, increasing community dialogue, and engaging parent advocates to help African American parents navigate the child welfare system.

In October, the subcommittee met at the campus of Brooklawn Child and Family Services in Louisville. Brooklawn is a provider of residential treatment for children with serious emotional disturbances and serves children from 90 counties. Approximately 25 percent of the children that Brooklawn serves are from Jefferson County. Private child care residential treatment and psychiatric residential treatment services are provided at Brooklawn. The average daily census of clients is 69 in the private child care component and 36 in the psychiatric residential treatment component. Brooklawn also provides IMPACT Plus Services and has a Family Skills Program. More than 600 children were referred in 2006, but the facility has to turn away five children for every one child it serves.

The subcommittee heard a presentation by the executive director of the Commission for Children with Special Health Care Needs. The commission serves about 8,000 to 10,000 children who have a variety of special health care needs across the state. A pilot project in Owensboro for medically fragile foster children has been expanded statewide. The new initiative pairs social workers with nurses on monthly visits to children in medically fragile foster care. Additional pilot projects in Prestonsburg, northern Kentucky, and Paducah are pairing nurses with Department for Community Based Services social workers to better serve the health care needs of all foster children.

The subcommittee heard a presentation on the placement of children with family members, relatives, and foster parents. There are approximately 6,900 children in the custody of the cabinet who are in foster care placements and about 7,911 children actively receiving financial assistance through the Kinship Care program. There is little financial assistance or services for relatives when they agree to assume custody of a child unless the cabinet places the child in the home of the relative.

Youth Services, Obesity, and Physical Activity

The subcommittee heard an update on the Kentucky Youth Development Coordinating Council, established by 2006 Senate Bill 184. The council is charged with supporting the collaboration of existing youth services to increase the quality, efficiency, and effectiveness of services and supports for young people. The council will conduct a statewide assessment of all youth collaborative activities, establish subcommittees to take on specific tasks, and develop a three-year strategic plan.

An assistant professor from the College of Public Health at the University of Kentucky presented highlights from the Kentucky Youth Risk Behavior Report on obesity and drug data. There are still several areas of concern; however, health indicators for Kentucky's youth are improving, particularly in tobacco use. Kentucky ranks fourth in the nation for high school smoking and has the highest percent of high school students that are obese. Overall, 16 percent of Kentucky high school students and 17 percent of middle school students have body mass indexes at the 95th percentile or higher. The data indicate that more children in Kentucky are becoming obese at increasingly younger ages. It was also noted that Kentucky students get the least amount of physical activity of any students in the nation. Only 25 percent of high school students in Kentucky get 60 minutes or more of physical activity per day, compared to 54 percent in the nation. Sixty minutes per day is the

recommended amount of physical activity. There was agreement that there are many creative ways to increase physical activity in schools.

The assistant director of the Division of Adult and Child Health Improvement and the program coordinator of the Obesity Prevention Program presented an overview of the cabinet's wellness and physical activity initiatives. They discussed the federal Centers for Disease Control and Prevention (CDC) Obesity Prevention Grant, which provided the ground work for five areas of action: schools, worksites, health care, built environment, and families and communities. The current CDC grant is \$420,000, which is a reduction from previous grants because of reduced federal funding to the CDC.

The Take 10! Program focuses on how to integrate physical activity in the classroom setting. Also, a set of pilot programs across the state have after-school structured physical activity programs that focus on engaging kids in more activity rather than just physical education. Save the Children has similar programs in 33 schools in the southeastern part of the state that offer after-school activities four days a week. There is some evidence from research that physical activity increases academic performance, and research at the University of Kentucky has shown there are no negative effects on school test scores from increased physical activity.

The presenters indicated that there are several things that can be done to build physical activity into everyday life. One study showed that the risk of obesity declines by 30 percent for people who live in a neighborhood where walking or biking is feasible. The Transportation Cabinet can be encouraged to make more connections between parks, schools, and homes and to take more initiative in creating bike paths and walking paths where practical and cost effective.

The Governor's Get Healthy Kentucky Board and the Council on Wellness and Physical Activity initiatives were discussed. The presenters indicated that the Council on Wellness, created by 2006 House Bill 646, will have a more centralized location for information on wellness programs and program outcomes. A follow-up of the health forums for the Get Healthy Kentucky initiative shows that communities across the state see improving nutrition, increasing physical activity in schools, and increasing worksite physical activity as priorities for wellness initiatives.

The subcommittee heard an overview of physical activity and nutrition programs promoted by the Department of Education. The number of schools participating in various programs and the success of implementation was discussed.

Public Assistance

The commissioner of the Department of Community Based Services discussed some of the changes brought about by the interim federal Transitional Assistance for Needy Families (TANF) regulations. He indicated that Kentucky receives about \$181 million in federal TANF funds and \$71 million in state funds. In 2005, about \$22 million of the TANF funds were transferred to the Division of Protection and Permanency of the DCBS for child

protection purposes. The cabinet is working to meet the new federal work requirements that 50 percent of the TANF population be engaged in work activities. The commissioner indicated that Jefferson County is a particular challenge, and the department is working one-on-one with those in educational activities because higher education will no longer count as a work activity.

Subcommittee on Women's Health

The Women's Health Subcommittee met three times during the 2006 Interim.

Women's Health Initiatives

An overview of Kentucky's accomplishments, initiatives, and future challenges of women's health was presented by the director of the Division of Adult and Child Health Improvement in the Department for Public Health and by the executive director of the Office of Health Policy in the Cabinet for Health and Family Services. Accomplishments of the cabinet include funding for mobile mammography screenings in Martin, Wolfe, and Magoffin Counties in cooperation with the Breast and Cervical Cancer program. Anyone diagnosed through the Breast and Cervical Cancer program is eligible for breast and cervical cancer treatment. The program has served more than 1,000 women since 2002.

Breast and cervical cancer awareness initiatives include a special license plate and the First Lady's birthday card program. Sales of the license plates raised approximately \$50,000, with all proceeds going into the Road Fund. An individual may make a donation above and beyond the cost of the license plate at each county clerk's office. Each year approximately 70,000 senior women between the ages of 65 to 69 receive a birthday card from the First Lady reminding them to have cancer screenings. In addition, the Department for Medicaid Services sends approximately 500 birthday cards per month to women between the ages of 19 and 64 in nine counties that have high cancer mortality rates and low cancer screening rates. Women identified as at risk of developing breast and/or cervical cancer receive a \$10 voucher when they receive breast and cervical cancer screenings. The subcommittee also heard a detailed report about the Gardasil vaccine for cervical cancer caused by human papillomavirus.

The director reported that breast cancer, heart disease, and stroke remain the leading causes of death among Kentucky women but that these rates have decreased. Smoking rates have also declined among women from 28.1 percent in 2003 to 26.9 percent in 2005. The cabinet implemented a QUIT line that has assisted approximately 500 people to decrease or quit smoking. Overall, 28.7 percent of Kentuckians smoke, compared to 20.6 percent nationally; and 24 percent of Kentuckians smoke during pregnancy, compared to 11 percent nationally. It was noted that the CDC recommends evidence-based strategies to assist individuals to quit smoking, including increasing cigarette taxes. The director reported that all counties in Kentucky have access to Cooper-Clayton smoking cessation groups. Medicaid coverage for smoking cessation was implemented in November 2006.

Improving nutrition and increasing physical activity are goals for improved public health. Approximately 55 percent of Kentucky women are overweight or obese. These two conditions are highest in women with lower education levels and lower income levels. Some initiatives implemented to improve nutrition and increase physical exercise among adults and school children include the Partnership for Fit Kentucky, walkable communities, and the Governor's Wellness and Physical Activity Initiative. It was noted that 80 percent of Kentucky women do not eat five fruits or vegetables each day. The director emphasized the concept of "life course perspective" and the importance of focusing on a healthy lifestyle throughout life. Stressors and risk factors are cumulative over the life span and affect health outcomes throughout life, not just for a specific period of time.

Report of the 2006 Interim Joint Committee on Judiciary

Sen. Robert Stivers, Co-Chair
Rep. Gross Lindsay, Co-Chair

Sen. Perry Clark
Sen. Carroll Gibson
Sen. Ray S. Jones II
Sen. Gerald A. Neal
Sen. Jerry P. Rhoads
Sen. Richard “Dick” Roeding
Sen. Ernesto Scorsone
Sen. Dan Seum
Sen. Katie Stine
Sen. Jack Westwood
Sen. David L. Williams
Rep. Kevin D. Bratcher
Rep. Perry B. Clark

Rep. Jesse Crenshaw
Rep. Joseph M. Fischer
Rep. Jeff Hoover
Rep. Stan Lee
Rep. Darryl T. Owens
Rep. Frank Rasche
Rep. Steven Rudy
Rep. Arnold Simpson
Rep. Kathy W. Stein
Rep. John Vincent
Rep. Robin L. Webb
Rep. Rob Wilkey
Rep. Brent Yonts

LRC Staff: Norman Lawson, Jonathan Grate, Raymond DeBolt, Autumn Dmytrewycz,
and Michelle Coyle

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

Interim Joint Committee on Judiciary

Jurisdiction: Matters pertaining 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 decedent's 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; attorneys; 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; juvenile matters.

Committee Activity

During the 2006 Interim, the Interim Joint Committee on Judiciary held two meetings.

The first meeting of the committee was held in Frankfort on September 19, with Sen. Stivers chairing the meeting. The commissioner of the Department of Corrections spoke about a revised proposal for a prison industries bill that would permit inmates to work for private industry in a prison setting, under a federally approved program, in which the inmate would earn minimum wage, and the products or services could be sold interstate. The commissioner also proposed reintroduction of bills relating to a pretrial drug diversion program, a corrections housekeeping bill relating to costs of transporting inmates and video conferencing in civil cases, a bill relating to inmate banking and account transactions fees, a bill shortening the time for consideration of the parole of inmates with terminal conditions, and a bill penalizing sexual conduct between staff and inmates

The next set of bills were proposed by the Justice and Public Safety Cabinet and included codifying the placement of the Kentucky State Police, Kentucky Vehicle Enforcement officers, and other peace officers in the Kentucky Law Enforcement Foundation Program Fund, which provides a salary supplement for taking training and which would increase the stipend to \$3,100; a bill relating to standards for revocation of peace officer certification; a bill permitting Kentucky State Police employees to participate in the Kentucky employee suggestion program; a bill requiring the Department of Corrections to respond to open records requests within five days; a bill modernizing the definitions relating to Sudden Infant Death Syndrome (SIDS) and requiring investigation of SIDS cases; a bill requiring criminal records checks on persons displaced during disasters and for emergency placement of children and providing for restrictions on release of information relating to the security of the institution of the Department of Juvenile Justice.

The deputy secretary of the Justice and Public Safety Cabinet spoke of the need for a bill relating to prohibiting the sale and use of alcohol vaporizing devices except for medical purposes. These devices are being used to provide the intoxicating effects of alcoholic beverages without ingesting the beverage. The deputy secretary also proposed legislation that would provide for registering and decontaminating the premises that had been used for the illegal production of methamphetamine so that persons could be certain the premises were safe to occupy. Several legislators wanted to increase the scope of the proposal to include motor vehicles and motor homes, while other legislators were concerned about the costs of the decontamination and who would pay the costs.

A representative of the Department for Public Advocacy spoke about a proposal to forgive student loans of attorneys for the prosecution and defense of cases by public agencies to encourage law students to participate in careers of public service. A set amount of the loan would be forgiven for each year of public service as a prosecutor or public defender.

The commissioner of the Department of Corrections was questioned about delays in the processing of applications for restoration of voting rights of convicted felons. The commissioner replied that the department provides the information in a timely manner and any further action on the request must be made by the Governor.

Discussion on a Department of Juvenile Justice proposed administrative regulation relating to juvenile sex offenders was deferred until the matter could be heard by the Administrative Regulations Review Subcommittee.

The Attorney General's office made a presentation about potential problems associated with the passage of House Bill 3, the sex offender legislation from the 2006 Regular Session of the General Assembly involving technical problems with a Class C felony penalty for incest; defining whether extended registration periods and new registration requirements relate to offenders convicted before the effective date of the act; and defining whether residence requirements relate to offenders convicted prior to the effective date of the act. The Attorney General also proposed changes in habeas corpus legislation to require petitions for habeas corpus to be filed in the county of conviction rather than in the county where the applicant is incarcerated.

The director of the Kentucky Bureau of Investigation spoke about the implementation of 2006 Internet pharmacy legislation and the successful impact that it has had on reducing the flow of diverted drugs into Kentucky.

The director of the Division of Consumer Protection for the Attorney General spoke of the need to reintroduce legislation relating to identity theft that provided guidelines, standards, civil remedies, and criminal penalties.

Other proposals from the Office of the Attorney General included a bill relating to rewards for whistle-blowers in Medicaid fraud cases; a bill requiring coroners to perform post mortem examinations on persons who die in nursing homes and similar facilities; and a

bill establishing a requirement for a security bond for persons receiving Medicaid and similar payments where there has been fraud in the past.

The second meeting of the committee was held on November 21 in Frankfort, with Rep. Lindsay as chairman. The meeting started by Rep. Wilkey presenting a resolution honoring Chairman Lindsay who was chairing his final meeting of the Interim Joint Committee on Judiciary. Sen. Stivers presented a plaque from the Kentucky Academy of Defense Lawyers honoring Rep. Lindsay.

The State Medical Examiner presented information relating to the need to replace the medical examiner's facility in Louisville, which was described as out of date, inadequate, and not capable of being improved at the present location, with a new modern facility similar to those in Frankfort and Madisonville. Several legislators asked about the Fort Thomas facility that was also described as inadequate and asked the medical examiner to consider asking for replacement of that facility as well as the one in Louisville.

The Drug Abuse Resistance Education (DARE) coordinator for the Kentucky State Police spoke of the need to fund further education programs with a \$25 additional court cost on convictions for driving under the influence and for drug offenses. This would provide \$1.1 million to pay overtime to officers presenting DARE programs in the schools.

The coordinator of Highway Safety Programs for the Kentucky State Police spoke of the need for legislation to reduce the blood alcohol concentration for aggravating circumstances in driving under the influence cases from .18 to .15 in order to reduce accidents and deaths and to receive additional federal highway traffic safety funding.

Several legislators commented on the need for legislation relating to operating a motor vehicle while under the influence of drugs and the necessity for establishing statutory drug concentrations for such offenses.

Sen. Stivers indicated that he placed four Justice and Public Safety Cabinet proposals for legislation in the committee folder for future consideration and comments and suggestions. The proposals prohibit secret compartments in motor vehicles for the purpose of hiding drugs, firearms, or people as a Class D felony and provides for confiscation of the vehicle; require a judge to grant immunity from prosecution in a criminal case to a person whose testimony is sought upon approval from the Justice and Public Safety Cabinet; and two proposals that relate to asset forfeiture, one clarifies language as to forfeiture, and the other adjusts the formula for distribution of assets to provide 75 percent to the law enforcement agency seizing the assets, 20 percent to the office of the prosecutor who prosecuted the case, and 5 percent to the Justice and Public Safety Cabinet for drug programs and other specified purposes.

Representatives of the Kentucky County Attorneys Association presented legislative proposals to provide that possession of a controlled substance in the blood or urine of a person constitutes possession of the substance for legal purposes; to seek an appropriation of \$365,000 to fund child support collection programs in view of cuts in those programs during

past years; and to correct a problem with the statute requiring drivers to have insurance for their motor vehicles to specify that both the owner of the motor vehicle and the operator of the motor vehicle must have insurance. Several legislators commented on the drug proposal and were concerned about penalizing therapeutic levels of legally prescribed drugs.

The final speaker was from an organization known as APRISS who described a pilot program that is being operated in Laurel County to track purchases of pseudoephedrine, which is used to illegally manufacture methamphetamine. The pilot program has pharmacists enter the information into a computer program available to law enforcement. A detective from Laurel County spoke of the effectiveness of the program in providing information that results in the detection of persons illegally manufacturing methamphetamine. Several legislators indicated that the goals of the program could be realized by expanding the Kentucky All Schedule Prescription Electronic Reporting system operated by the state to include tracking of ephedrine and pseudoephedrine purchases.

**Report of the 2006
Interim Joint Committee on
Labor and Industry**

**Sen. Alice Forgy Kerr, Co-Chair
Rep. J.R. Gray, Co-Chair**

Sen. Julian M. Carroll
Sen. Julie Denton
Sen. Brett Guthrie
Sen. Denise Harper Angel
Sen. Ray S. Jones II
Sen. Jerry P. Rhoads
Sen. Richie Sanders
Sen. Katie Stine
Sen. Jack Westwood
Sen. Ken Winters

Rep. John A. Arnold
Rep. Joe Bowen
Rep. Denver Butler
Rep. C.B. Embry
Rep. Bill Farmer
Rep. Charlie Hoffman
Rep. Dennis Horlander
Rep. Joni Jenkins
Rep. Thomas Kerr
Rep. Charles Miller
Rep. Russ Mobley
Rep. Rick G. Nelson
Rep. Jim Stewart III
Rep. Brent Yonts

LRC Staff: Linda Bussell, Adanna Hydes, Melvin LeCompte, and Ashli Schmidt

**Presented to the
Legislative Research Commission
and the
2007 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 four meetings during the interim. The first meeting was held June 15. The two items on the agenda included an update on coal mine safety and an overview of a firefighter overtime issue.

The secretary of the Environmental and Public Protection Cabinet (EPPC) provided an update on coal mine safety and the impact of recently enacted legislation on the prevention and reduction of fatalities in the future. The secretary summarized the events of May 20, 2006 at Kentucky Darby No. 1 mine in Harlan County, when five miners were killed in an explosion creating the worst Kentucky mining disaster since 1989.

The secretary stated that even prior to the West Virginia Sago tragedy and the Kentucky Darby mine disaster, Kentucky had gone far beyond what other states have done to improve coal mine safety, citing the increased number of inspectors from 47 to a current level of 65 and doubling the number of annual coal mine inspections.

Additional actions taken by the cabinet to address coal mine safety included the formation of a task force in December 2004 to investigate the extent of substance abuse problems and to recommend solutions to the problem. The recommendations of the task force were incorporated into House Bill 572, which was enacted by the 2006 General Assembly. House Bill 572 required mandatory drug screening of coal miners prior to certification, provided incentives for employers to perform random drug screening, required employee assistance programs, and authorized postaccident drug screening.

The 2006 General Assembly also enacted Senate Bill 200, which was described by the secretary as the most comprehensive mine safety legislation that any state has passed and very similar to federal legislation passed by Congress and signed by President Bush on June 15, 2006. The provisions of the bill included a requirement for additional self-contained self-rescue devices, establishment of a toll-free number system to facilitate a more prompt reporting of coal mine accidents, whistle-blower protection for those reporting unsafe or suspicious activity in a coal mine, authority for the cabinet to impose penalties for significant violations without the necessity of first going through the Mine Review Commission, and the creation of mine rescue teams staffed by state agency employees. The secretary informed the committee that Kentucky is the only state that has mine rescue teams that are staffed by state agency employees.

Committee members raised concerns about the reliability of the self-rescuer devices, discussed the possibility of using alternative safety devices such as safety rescue chambers, and cited the need for improved communications within a coal mine. Several committee members also raised concerns about inadequate pay levels for mine analysts and inspectors and the problems this causes in recruiting a sufficient number of analysts and inspectors.

The final item on the agenda related to firefighters and overtime pay. Since 2000, several lawsuits around the state have been filed against city and county governments regarding firefighter overtime pay. Because this issue could be very costly to local governments, representatives from the Department of Labor, Kentucky League of Cities, Kentucky Fire Commission, and the Kentucky Professional Firefighters Association were invited to update the committee on the status of this issue.

The executive director of the Division of Employment Standards stated that the controversy arose over the issue of how to calculate overtime on the state salary or incentive pay supplement that is provided to cities and local governments to assist in paying for scheduled work time for firefighters. Firefighters typically have a workweek that includes 24 hours on and 48 hours off, which is not the standard 40-hour workweek for most employees. Payments are considered part of wages. The state law does not provide an exception to the 40-hour rule for firefighters. The executive director stated that there is no specific direction as to how to calculate overtime when the state incentive pay is a factor. In 1984, the Department of Labor issued guidelines for calculating overtime on the basis of the incentive pay. In 2000, Louisville firefighters filed a complaint alleging that they had not been paid the correct amount of overtime. The final order issued by the Labor Cabinet in the Louisville firefighters' case ruled that the state incentive pay was paid for scheduled work hours but was to be paid for all hours worked over 40. On appeal, a Jefferson Circuit Court ruled in favor of the firefighters. The case is currently on appeal to the Court of Appeals. The executive director stated that legislative action might be required to ultimately determine how the state incentive supplement is to be paid.

The director of the Kentucky Fire Commission indicated that there are 30 to 35 cities that have paid professional fire departments and this overtime issue only affects those cities. Volunteer fire departments are not affected.

The second meeting was held on August 10. The major item on the agenda was an overview of the 2006 Loss Cost filing submitted by the National Council on Compensation Insurance (NCCI). The NCCI is a licensed advisory organization that calculates advisory workers' compensation rates for its member workers' compensation insurance carriers in Kentucky.

The executive director of the Kentucky Office of Insurance reported that the 2006 filing by the NCCI recommended the largest decrease in workers' compensation rates since 1997. The filing recommended a decrease of 9.3 percent for industrial classes and 4.5 percent for coal classes.

The executive director summarized the review and approval process for the NCCI Loss Cost filing and reminded members that adoption of NCCI's recommended rates is voluntary for workers' compensation insurance carriers. Some of the factors contributing to the recommended decrease included a higher than expected decline in claim frequency and flattening increases in medical and indemnity costs.

The third meeting was held in conjunction with the Labor - Management Conference at Kentucky Dam Village State Park on September 12. Agenda items included an update on the restructuring of Ford Motor Company, expansion of the Kentucky operations of the United Parcel Service (UPS) in Louisville, and the role of the Office of Labor Management Relations and Mediations in the Department of Labor.

The secretary of the Economic Development Cabinet informed committee members that major changes were in progress within the Ford Motor Company that included significant restructuring and several plant closings. The secretary noted that the Louisville Assembly Plant makes sport utility vehicles and that sales for this market were down 25 to 30 percent. The secretary said the Governor and the Mayor of Louisville had recently discussed with Ford officials opportunities that Kentucky and Louisville could provide to help Ford continue and possibly expand production in Kentucky. He indicated that many of the ideas discussed would potentially need legislative action in the future.

The public affairs manager of UPS discussed the expansion of its operations in Louisville. UPS employs more than 350,000 employees worldwide, with half of those being members of the Teamsters Union. UPS is Kentucky's second-largest employer, with 18,000 employees in the Louisville area and a total of 21,000 in Kentucky. Under the most recent labor agreement with the Teamsters Union, UPS has committed to add a minimum of 150 full-time union jobs between 2002 and 2008. The UPS operations in Kentucky generate approximately \$220 million in state and local taxes annually. UPS also operates Metro College, a partnership between UPS, local and state officials, and community education leaders, that pays 100 percent of participating students' tuition costs. There are 1,800 UPS employees currently enrolled in Metro College.

The last agenda item was a presentation by the executive director of the Office of Labor Management Relations and Mediations. The executive director noted that while the staff plans the Labor-Management Conference, it also provides labor-management training programs. In 2004, the office conducted only three trainings, but thus far in 2006, it has conducted 28 training sessions. He also stated that the office has hired two full-time mediators to support the efforts of the commissioner of labor in facilitating settlements and resolutions of labor-management disputes.

The fourth committee meeting was on October 19 at the University of Kentucky Coldstream Research Facility in Lexington. The agenda item consisted of an update on the status of the Kentucky Unemployment Insurance Trust Fund. The executive director of the Office of Employment and Training stated that the trust fund has shown signs of stabilization over the past three years. The trust fund balance was \$333.2 million in August 2006, which

is an increase of approximately \$20.7 million from August 2005. The executive director said employer contributions to the trust fund have been higher in 2006 than in previous years.

The executive director noted that on July 1, 2006, the maximum weekly benefit amount increased from \$365 to \$401, and to date total benefit payments in 2006 are less than in previous years.

The executive director indicated that his office and the cabinet will continue to monitor the trust fund through 2007, and if conditions change, legislation could possibly be proposed in 2008. However, he did not anticipate the need for legislative action in the 2007 General Assembly.

**Report of the 2006
Interim Joint Committee on
Licensing and Occupations**

**Sen. Gary Tapp, Co-Chair
Rep. Denver Butler, Co-Chair**

Sen. Tom Buford
Sen. Julian M. Carroll
Sen. Perry Clark
Sen. Julie Denton
Sen. Carroll Gibson
Sen. Ray S. Jones II
Sen. Robert J. (Bob) Leeper
Sen. Daniel Mongiardo
Sen. Ernesto Scorsone
Sen. Dan Seum
Sen. Robert Stivers II
Sen. Damon Thayer
Rep. Tom Burch
Rep. James Carr
Rep. Larry Clark

Rep. Ron Crimm
Rep. W. Milward Dedman, Jr.
Rep. Jon Draud
Rep. Dennis Horlander
Rep. Joni L. Jenkins
Rep. Dennis Keene
Rep. Stan Lee
Rep. Paul H. Marcotte
Rep. Reginald K. Meeks
Rep. Charles Miller
Rep. Ruth Ann Palumbo
Rep. Jon David Reinhardt
Rep. Ron Weston
Rep. Susan Westrom

LRC Staff: Vida Murray, Bryce Amburgey, Tom Hewlett, and Susan Cunningham

**Presented to the
Legislative Research Commission
and the
2007 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 salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; warehouses and warehousemen; partnerships; trade practices.

Committee Activity

During 2006, the Interim Joint Committee on Licensing and Occupations met five times.

At the committee's first meeting, representatives of the Kentucky Office of Alcohol Beverage Control (ABC), the Kentucky Department of Agriculture, and the Kentucky Department of Tourism briefed members on the implementation of Senate Bill 82. The legislation, which was enacted in the 2006 General Assembly, established a small farm winery license for in-state and out-of-state wineries that produce no more than 50,000 gallons of wine per year. The ABC's representative provided members an update on the status of the *Huber* case, in which an Indiana winery asserted that Kentucky's statutes relating to small and farm wineries violated the Interstate Commerce Clause. The ABC's general counsel reported that a second complaint has been filed by the plaintiff wineries alleging that SB 82's requirement that wine be purchased in person gives preferential treatment to in-state sellers. Representatives of the Department of Agriculture and the Department of Tourism reported to the committee members what their respective agencies were doing to implement the legislation. To date, the Grape and Wine Council had negotiated with the wholesalers a cost of \$12 per case for the distribution of wine. Under the \$75,000 allocated to the Small Farm Winery Support Fund, each winery can distribute approximately 300 cases of wine. The money remaining in the fund that is not used by the smaller wineries will be redistributed to the larger wineries. Current wine production in the state exceeds the 6,250 cases that could be supported by the fund. A representative of the Department of Tourism reported that the department had developed a marketing strategy, a Web site, and a brochure to promote Kentucky wines and expects to have an advertising and a retail program in place by July 2007.

The next item on the agenda was an update from representatives of the Kentucky Horse Racing Authority on changes to administrative regulations concerning equine drug testing, jockey advertising, and international wagering hubs. The representative reported that under the changes, only bleeding medications could be given on the raceway, which is a marked departure from the previous rule. The representative reported that the medication regulation included a withdrawal schedule and that the Racing Authority had distributed the new guidelines to trainers and veterinarians. The Racing Authority's general counsel reported

to members that the administrative regulations concerning jockey advertisements had been amended to clarify what jockeys may wear. The new administrative regulation requires that the consent of the owner and the licensed racetrack be obtained if the jockey advertises anything other than the recognized logo of the Jockey Guild. The representative also reported that the Racing Authority was working with potential applicants for international hub licenses to establish fees that will attract businesses from Oregon to Kentucky.

At the committee's second meeting, representatives of the Office of Housing, Buildings and Construction briefed members on SB 224 from the 2006 General Assembly. The legislation requires that the advisory committee for a particular trade have an opportunity to comment on a proposed administrative regulation prior to its review by legislative committees. Representatives also briefed members on proposed statutory changes for the 2007 General Assembly that include changing the electrical licensing statutes to determine that an application is timely based on the date of receipt, regulating freight elevators, and requiring cigarette manufacturers to use self-extinguishing paper.

The second item on the agenda was an explanation of the Breeder's Incentive Fund. The fund, which was established by the 2005 General Assembly, is supported by the sales and use taxes imposed on stud fees. Eighty percent of the tax goes to the thoroughbred program, 13 percent to the standardbred program, and the remainder to the nonrace programs. The anticipated revenue is \$12 million, \$2 million, and \$1 million respectively. The standardbred breeders and the Kentucky Harness Racing Association agreed to use standardbred money to revitalize the sires stakes program. The representative noted that the money used has encouraged owners from other states to race their horses at The Red Mile and is expected to increase yearling sales. A representative of the Kentucky Horse Racing Authority reported that the thoroughbred funds would be used to encourage owners to keep mares in Kentucky for the entire gestation period and beginning in 2006, for payouts in both Kentucky and non-Kentucky races. In 2005, the Jockey Club reported that there were 9,943 Kentucky-foaled and -sired horses. It is expected that in 2006, there will be more than 10,000 live foals. Additionally, the number of mares staying in Kentucky is expected to increase.

The final item on the meeting's agenda was a report on the Kentucky Educational Excellence Scholarship (KEES) program from the executive director of the Kentucky Higher Education Assistance Authority (KHEAA) and representatives of the Kentucky Lottery Corporation. The executive director of KHEAA reported that the state budget office forecast indicates that net lottery proceeds will not be sufficient to sustain the KEES program in future years, absent support from the General Fund. Committee members' questions focused on whether the completion rate of students receiving KEES awards who attended technical schools exceeded those who attended four-year institutions. The vice president of Communication, Government, and Public Relations of the Kentucky Lottery Corporation indicated that 2006 was a record year for the lottery, generating \$742 million in sales, of which \$200 million went to the state. The vice president identified the challenges the Kentucky Lottery faces: continuing growth of the Tennessee lottery, competition with neighboring states that employ more active forms of gaming, and fairly stagnant growth.

At the committee's third meeting, representatives of the advanced registered nurse practitioner (ARNP) organizations and the Kentucky Board of Medical Licensure discussed the implementation of Senate Bill 65. The bill, which was enacted in the 2006 General Assembly, authorized ARNPs to prescribe controlled substances in accordance with administrative regulations established by the Controlled Substance Formulary Development Committee. The bill limits prescriptions written by advanced registered nurse practitioners for Schedule II drugs to no more than a 72-hour supply and prohibits refills being issued for Schedule III substances. Those representing the advanced registered nurse practitioners and the Board of Medical Licensure indicated that the two are at odds as to what additional restrictions should be placed on the prescriptive authority of ARNPs. Under a more narrow reading of the statute, the Board of Medical Licensure's representative felt that the drugs that are identified as having a high chance of abuse should be limited. On the other hand, the nurse members of the Controlled Substance Formulary Development Committee felt that no further limitations should be placed on the prescriptive authority of advanced registered nurse practitioners and advocated that aggressive monitoring of an ARNP prescribing controlled substances be implemented.

Next on the agenda, the executive director of the Board of Hairdressers and Cosmetologists briefed members on proposed legislation for the 2007 General Assembly. The executive director reported that the board wants to use national testing. Under existing law, the exam must be administered every 30 days by a quorum of board members. The advantages cited for national testing included cost savings due to downsizing the board's facility, greater accessibility to cosmetology students in areas that are remote from Frankfort, and greater objectivity since the board both administers and resolves complaints about the test.

The fourth meeting of the committee was held in Louisville at Yum! Corporate Headquarters, where the company's chief public affairs officer welcomed members and reported that Yum! generates approximately \$27 billion in revenue each year. The executive director and general counsel of the Kentucky Real Estate Commission also testified at the meeting. They reported that the number of real estate licensees and the number of complaints have increased. They attribute the increase to mandatory criminal background checks for new licensees. The commission's representatives indicated that its proposed legislative package for the 2007 General Assembly includes establishing a 36-hour postlicensing course for new licensees, establishing emergency procedures for freezing escrow accounts with problems, and expediting criminal background checks by using the National Crime Information Center system through the Kentucky State Police. Committee members asked the representatives why additional educational requirements were needed for new licensees and whether existing continuing education courses were not meeting that need.

The next item on the agenda was a report from the president of the Kentucky State Acupuncture Association who reported that the Kentucky Board of Medical Licensure had implemented an on-line application and had issued 10 temporary acupuncturist licenses.

The committee next discussed issues affecting charitable gaming. Representatives of affected charitable organizations expressed concern that new administrative regulations for

bingo by eliminating the use of “hard cards” and imposing additional fines may make it difficult for small organizations to operate. The assistant director for the Division of Licensing indicated that the changes were implemented to provide a means of tracking the money paid for the games. She also noted that the office was providing the organizations with extensive training on the changes and had suspended issuing fines until charities are familiar with the changes. She explained that the office now required participating charities to report their inventories of pulltabs and unused raffle tickets. The assistant director stated that the issue concerning the use of hard cards had been resolved by grandfathering approximately 15 organizations that are presently using the cards.

The final item on the agenda was discussion of a prefiled bill that increases the money going to the Equine Industry Program at the University of Louisville. The bill’s sponsor reported that in 1986 when the program was implemented, the taxes generated were approximately \$800,000 a year. Last year, the taxes were a little over \$300,000. Under the proposed bill, part of the taxes generated from simulcasting would go to the school to account for the loss of taxes generated from live racing.

The final meeting was held at Woodford Reserve Distillery in Woodford County. The first item was a discussion of a prefiled bill that requires continuing education for engineers. Representatives of the Kentucky Society of Professional Engineers and the State Board of Licensure for Professional Engineers and Land Surveyors spoke in favor of the legislation. They stated that public safety necessitates that engineers be kept abreast of changes in the industry. Among Kentucky and its seven surrounding states, Kentucky alone does not require continuing education for engineers. In response to the committee members’ questions, the executive director of the board stated that the continuing education classes will not be preapproved and that engineers will be able to take the classes that they find most relevant. The integrity of the classes offered will be maintained because classes will be audited. An engineer opposing the legislation noted that mandatory continuing education would be costly and stated that competition in the marketplace keeps engineers abreast of changes.

The second item on the agenda was an update from the director of Division of Occupations and Professions on the division’s activities. The director briefed members on recently promulgated administrative regulations relating to massage therapists and private investigators, the division’s costs of starting up a new board, and the growth of the number of licensees in the various boards the division oversees. The director distinguished between each board’s budget and the amount of the budget allotted to the division for administrative expenses. The director raised several issues concerning the private investigators’ statutes. These issues include licensing temporary investigators and obtaining clarification from the Office of the Attorney General on whether a sole practitioner is required to obtain an individual and a firm license. Also testifying was a private investigator who expressed concern that the board was not able to track private investigators working in the state for less than 240 hours. The law now allows a person to work without a license for up to 239 hours if he or she does so under the supervision of a licensed private investigator. The investigator testified that the law presented opportunities for abuse by allowing someone to work for one employer the maximum length of time and then shift to another employer.

The final business was the reading of resolutions honoring retiring members.

**Report of the 2006
Interim Joint Committee on
Local Government**

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

Sen. Walter Blevins, Jr.	Rep. David Floyd
Sen. Julian M. Carroll	Rep. Derrick Graham
Sen. Carroll Gibson	Rep. Jimmy Higdon
Sen. Ernie Harris	Rep. Charlie Hoffman
Sen. Tom Jensen	Rep. Dennis Keene
Sen. Dan Kelly	Rep. Stan Lee
Sen. Alice Kerr	Rep. Thomas M. McKee
Sen. Elizabeth Tori	Rep. Reginald K. Meeks
Sen. Johnny Ray Turner	Rep. Brad Montell
Sen. Ed Worley	Rep. David Osborne
Rep. Adrian K. Arnold	Rep. Terry Shelton
Rep. Scott W. Brinkman	Rep. Arnold Simpson
Rep. Ron Crimm	Rep. Ancel Smith
Rep. Mike Denham	Rep. Ken Upchurch
Rep. Ted “Teddy” Edmonds	Rep. Jim Wayne

LRC Staff: Jamie Franklin, Donna Gaines, Mark Mitchell, Joe Pinczewski-Lee, and Cheryl Walters

**Presented to the
Legislative Research Commission
and the
2007 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

The Interim Joint Committee on Local Government met five times during the 2006 Interim period. At the meetings, the committee heard testimony relating to the funding of county jails and the costs for the care of prisoners, the review of Kentucky's Community Development Block Grant application, the need for changes in the training of bailiffs, the need for the elimination of the office of constable, the need for additional revenue sources for local governments, storm water drainage problems in cities, a review of the final report of the Task Force on Local Taxation, the cost and operation of elections, local retirement issues, eminent domain, and the executive reorganization of the Department for Local Government as the new Governor's Office for Local Development (GOLD). The committee also met with various local government officials and representatives of other special interest groups to determine their concerns and legislative needs for the 2007 Session.

The first meeting for the committee was held in Frankfort. This meeting was primarily dedicated to the review of the 2006 Kentucky Community Development Block Grant application. Representatives of GOLD summarized the program application, discussed expected federal funding levels, and answered questions from committee members about the 2006 program. The committee then reviewed Executive Order 2006-678 that proposes the reorganization of the Department for Local Government into GOLD. During the presentation, office representatives laid out the rationale for the reorganization and discussed the structure and operations of the agency. They also discussed the Kentucky Appalachian Commission and the administrative transfer of the East and West Kentucky Corporations.

In July, the committee met with representatives of the Kentucky County Judge/Executives Association (KCJEA) and the Kentucky Magistrates and Commissioners Association (KMCA). The representatives from KCJEA made a presentation regarding their support for the final recommendations of Legislative Research Commission's Task Force on Local Taxation. They then discussed the continuing issue of the costly responsibilities for counties resulting from the underfunded state mandates arising from the care and housing of prisoners. The members were told that health care costs for prisoners are still stretching county budgets to the limit. Issues such as medical cards becoming invalid upon incarceration, the payment of expensive medical and psychological testing that is not a result of incarceration, the need for better medical and prescription management practices, and possible payment to the county from the time of incarceration rather than final adjudication were also discussed. Representatives of KMCA then presented their concerns and recommendations that included their desire for the Louisville/Jefferson County Metro Government to participate in their organization; the need for a deed transfer tax to assist counties that do not have an occupational tax; the need for local governments to be able to use impact fees; the need for the revision of House Bill 44; and the need for revenue sharing between local governments.

The committee's September meeting was held in Frankfort and was a joint meeting with the Interim Joint Committee on State Government. The part of the meeting that focused on local government issues was the presentation of the final report and recommendations of the Task Force on Local Taxation. Legislative Research Commission (LRC) staff presented the final recommendations:

- 1) Propose a constitutional amendment to Section 181 of the Kentucky Constitution to allow the General Assembly in the future to establish a more flexible and efficient local government tax structure;
- 2) Amend the statutes to allow fiscal courts to eliminate special districts in a more streamlined and efficient manner;
- 3) Require all existing and newly created special districts to register with the Governor's Office for Local Development within a specified time frame;
- 4) Require special taxing districts created by fiscal courts, other than those regulated by the Public Service Commission, to have all rates and fees approved by the fiscal court;
- 5) Require special taxing districts to submit budgets and tax rates to fiscal courts in a timely manner to comply with the county budgeting process;
- 6) Encourage local governments to focus on matching revenues to the provision of services and to implement efficient tax collection procedures and standardization when possible. The task force encourages jurisdictions with overlapping taxes that are not uniform and that have local ordinances with differing requirements to develop interlocal agreements to reduce compliance burdens, including the filing of multiple tax forms by businesses;
- 7) Create and maintain a credible local government financial database including counties, cities, and special districts, to provide relevant information about local government finances to decision makers;

- 8) Propose legislation to require insurance agents and insurance companies to place on every application for insurance the name and tax identification number of the jurisdiction where the risk is located;
- 9) Encourage the General Assembly to study the road aid formula, which has not been significantly amended since 1948;
- 10) Expand the method for funding 911 services to allow alternative funding sources due to the declining base caused by a reduction in the number of land lines as people switch to cellular telephones; and
- 11) Encourage the General Assembly to establish a dedicated funding source for property valuation administrator (PVA) offices by devoting 2.11 cents of the state real property tax rate to fund PVA personnel.

A minority report was also included in the final report that called for the authority for all local governments to levy a restaurant tax that is currently only available to cities of the fourth and fifth classes.

The remainder of the fourth meeting included presentations by representatives of the Registry of Election Finance on campaign finance issues and by the Personnel Cabinet on the 2007 Public Employee Health Insurance Plan. Further details of these presentations are included in the final report of the Interim Joint Committee on State Government.

At the fourth meeting in October, the committee traveled to Lexington to meet in conjunction with the annual meeting of the Kentucky League of Cities (KLC) to discuss its legislative needs for the 2007 General Assembly. At this meeting, KLC representatives discussed their issues of concern that included the need for all local governments to have the flexibility to generate the revenues necessary to operate in the face of increasing operational costs; the need for a constitutional amendment to extend these additional taxing options to local governments that could include a local option sales tax or revenue sharing programs; the need for possible state review of or assistance with storm water drainage; the effects of recent court decisions on eminent domain and eminent domain generally; the cost to local governments for health care insurance benefits for active and retired local government workers; and the increasing cost of funding pensions for local government workers.

At the final committee meeting in November in Frankfort, the committee first honored its retiring members before proceeding with presentations by the Kentucky Association of Counties (KACo), the Kentucky Magistrates and Commissioners Association, and the Kentucky Sheriffs' Association regarding their legislative proposals for the 2007 Session.

Representatives of KACo told the committee about a new prescription discount card program they are implementing across the state that could save participants up to 21 percent on their prescription drug costs. They explained that all residents in all counties that choose to participate in the program will receive a card. All Kentucky counties are able to participate at no charge because of their membership in KACo and the National Association of Counties that offer the program to all members. In regard to their legislative issues, it was noted that their main concern is the underfunding of the costs for the care and housing of

state prisoners in county jails. They maintain that this function is a state responsibility. Several committee members agreed with the theory that the state should assume control and responsibility for the local jails. One member suggested that a comprehensive LRC study on this issue may be needed. The KACo representatives also discussed their concern over the loss of revenue to local governments resulting from the recent enactment of the telecommunication tax modernization bill. They explained that local governments were supposed to be held harmless with the enactment of the bill. But because of an underestimate of the amount of funds that local governments were actually receiving from local franchise fees, counties were actually receiving approximately 18 percent. Lastly, the KACo representatives also said they would like to see the issue of the sharing of revenues between local governments revisited.

The Kentucky Magistrates and Commissioners Association discussed additional issues they would like to see considered by the General Assembly in 2007. These included requiring counties to pay only the Medicaid rate for medical procedures and doctor fees, a review of the new computerized voting machines that are taking too much time to operate and that are not user friendly to some segments of the population, the elimination of the office of constable, and the possibility of receiving more money to upgrade local animal shelters and look at the development of regional programs in this area.

Representatives of the Kentucky Sheriffs' Association appeared before the committee asking for consideration of a proposal to provide training for court bailiffs and going on record with their concern about the continued depletion of the Kentucky Law Enforcement Foundation Fund by state government.

The last item of business was a presentation by two special interest groups, the League of Kentucky Property Owners and Take Back Kentucky, concerning the issue of eminent domain. The speakers said that since the 2005 *Kelo vs. New London* case was decided by the United States Supreme Court, it is now up to the individual states to determine what constitutes a legitimate "public use." Thus, this is leaving open the possibility of local governments condemning private property for supposed public uses for economic development. Representatives stated that 2006 House Bill 508 was a good beginning to curb the abuse of eminent domain by governments. They noted that what the legislation failed to clarify, however, was the definitions of "public use," "economic development," and "blight." The representatives of the League of Kentucky Property Owners provided the committee with possible definitions for "public use" and "economic development" that fall in line with national and state model. They also made suggestions for other sections of KRS Chapter 416 relating to the processes currently used for remedy once eminent domain is actually invoked. The representative of Take Back Kentucky said that group was in the process of developing a specific legislative proposal it would submit to committee members at a later date to address the issue of defining "economic development" and "blight."

**Report of the 2006
Interim Joint Committee on Seniors, Veterans,
Military Affairs, and Public Protection**

**Sen. Elizabeth Tori, Co-Chair
Rep. Mike Weaver, Co-Chair**

Sen. Carroll Gibson
Sen. Denise Harper Angel
Sen. Vernie McGaha
Sen. Daniel Mongiardo
Sen. Joey Pendleton
Sen. Jerry Rhoads
Sen. J. Dorsey Ridley
Sen. Richard “Dick” Roeding
Sen. Dan Seum
Sen. Katie Stine
Sen. Jack Westwood
Sen. Ken Winters

Rep. Sheldon E. Baugh
Rep. Carolyn Belcher
Rep. Tom Burch
Rep. Bill Farmer
Rep. Mary Harper
Rep. Gerry Lynn
Rep. Fred Nesler
Rep. Tanya G. Pullin
Rep. Steve Riggs
Rep. Tom Riner
Rep. Steven Rudy
Rep. Charles L. Siler
Rep. Ancel Smith

LRC Staff: Scott Varland, Clint Newman, Mustapha Jammeh, Tyler Campbell, and
Rhonda Schierer

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

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

Jurisdiction: Matters pertaining to senior citizens; eliminating age discrimination; non-public sector retirement; problems of aging; violent acts against the elderly; 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; garbage and refuse disposal.

Committee Activity

During 2006, the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection held four meetings.

The June committee meeting began with the adoption of six resolutions honoring Kentucky soldiers killed in Operation Iraqi Freedom.

An audit manager with the Auditor of Public Accounts presented an audit of the Department of Military Affairs. She said the findings range from most significant to least significant: material, reportable, and other matters. This year's audit uncovered no material findings but seven reportable ones. First, when a state agency receives federal dollars that it then passes on to another entity, that state agency is charged with monitoring whether the entity is following federal procedures in spending the money. This is known as subrecipient monitoring, with which the Department of Military Affairs has not been doing an adequate job. A second and related reportable finding consists of the department failing to establish proper controls to ensure accurate subrecipient monitoring quarterly reports for federal funds passed on to local governments to complete certain projects. In a third and related reportable finding, the department has failed to ensure that these projects are completed on time and has failed to require that local governments submit a request for a deadline extension when necessary. Fourth, the department lacks documentation showing that it properly closes out federal grants. Fifth, the department has charged costs to the federal government without proper documentation and should reimburse the federal government for these costs. Sixth, the department permits one individual to enter and approve a transaction in the accounting system, when it should be reviewed by other department employees. Seventh, armories have not followed proper procedures with regard to their installation management fund accounts.

The adjutant general disputed the fourth and sixth reportable findings.

An audit manager with the Auditor of Public Accounts presented an audit of the Kentucky Office of Homeland Security (KOHS), which uncovered no material findings but two reportable ones. First, KOHS lacks formal procedures for reviewing federal Homeland Security Grant applications and making grant awards. Furthermore, panel member

qualifications are not documented for the two panels involved in awarding federal homeland security grants: the technical review panel and the blue ribbon panel. Lastly, members of the two panels lack proper training. The audit manager provided several of the Auditor's suggestions for addressing these problems. Second, KOHS does not provide the required federal documentation when one of its employees is working on a federal program.

The KOHS executive director disputed some of the Auditor's assertions but embraced most of the recommendations for addressing the reportable findings.

The committee next received testimony on pandemic flu. The commissioner of the Department for Public Health said that Kentucky is preparing for the next pandemic. The department has created the Kentucky Pandemic Influenza Plan, and 48 communities have had or will have pandemic summits. The general counsel with the Cabinet for Health and Family Services discussed Kentucky law pertaining to pandemics and mentioned that KRS 214.020 gives the cabinet broad authority to deal with pandemics. However, he said that in the future, the statute may be challenged in court as being overly broad. A representative of the Kentucky Poultry Federation discussed bird flu and stated that since the only known deaths have been 100 people in Asia, bird flu is unlikely to pose a public health threat in the United States.

The September meeting began with the adoption of two resolutions honoring Kentucky soldiers killed in Operation Iraqi Freedom.

The Personnel Cabinet deputy secretary testified on House Bill 24, pertaining to the "veterans preference" in the hiring of state employees, that was taken up during the 2006 General Assembly but failed to gain passage. He said that the Personnel Cabinet supports the Free Conference Committee Report version of House Bill 24, which required that the register certificate of finalists for a merit job identify all veterans and family members listed on the certificate who qualify for veterans preference points under KRS 18A.150. The bill further required that a hiring state agency offer a job interview to the five most qualified veterans and family members listed on the certificate.

A commissioner with the Personnel Cabinet said that hiring managers need to learn more about veterans in to order to better understand veterans' applications.

The deputy commissioner of the Kentucky Department of Veterans Affairs (KDVA) stated that KDVA also supports the Free Conference Committee Report version of House Bill 24. He pointed out that at present veterans preference plays no role in the filling of most state jobs.

Various KDVA representatives spoke on KDVA activities.

The executive director of the Office of Kentucky Veterans Centers began by discussing Community Based Outpatient Clinics for veterans, which provide veterans greater access to health care. The federal government has built 16 of the clinics in Kentucky, and 10 more are scheduled to open in the next few years.

The executive director also discussed the three veterans nursing homes that KDVA operates. Two have opened since 2000, thus reducing the wait for nursing home beds. (However, there is a growing need for a nursing home in the Louisville/Hardin County area.) KDVA would like to continue renovating the Thomson-Hood Nursing Home for which Kentucky has provided the necessary state funds required, but the federal government has not provided federal funds.

The cemeteries branch manager said that KDVA opened its first cemetery in Hopkinsville in March 2004. The Radcliff cemetery is under construction. Design of the Williamstown cemetery is almost complete, and construction bidding should start in the next six to eight weeks. KDVA is in the process of acquiring land in Greenup and Leslie Counties for two more cemeteries.

The homeless veterans coordinator said that KDVA operates a 40-bed Homeless Veterans Transition Facility in Lexington funded by the United States Department of Veterans Affairs, the General Fund, and KDVA's Veterans Program Trust Fund. Also, last year the Veterans Program Trust Fund spent \$28,000 to provide financial assistance to veterans who were in danger of becoming homeless. Lastly, Inter Link Counseling Services is a long-term substance abuse program located in Louisville that is about to begin construction of a 28-unit housing development that will give priority to veterans.

The women veterans coordinator said that she has been attending national programs to address the issues confronting women veterans. The Kentucky Women Veterans Coordinating Committee has also been addressing these issues. KDVA has applied to Inter Link Counseling Services for 10 beds to accommodate homeless women veterans. The application has not been acted on.

The October meeting began with the adoption of three resolutions honoring Kentucky soldiers killed in Operation Iraqi Freedom.

The executive director of the Office of Management and Administration in the Kentucky Department of Military Affairs discussed 2006 House Bill 380 (Part XXVIII): omnibus language that provides for military family assistance.

Sections 1 through 4 of Part XXVIII create the Military Family Assistance Trust Fund. When a Kentuckian is deployed as a member of the regular military outside the United States or as a member of the National Guard or Reserve on any federal active duty, the trust fund comes into play. The service member's family may apply to receive a grant from the trust fund to pay for necessities such as housing, utilities, groceries, health insurance copay, and child care. The executive director said that the members of the Military Family Assistance Trust Fund Board had recently been appointed to administer the trust fund; therefore, no trust fund grants had been awarded.

Section 5 requires the Kentucky Department of Military Affairs to create a "Mission: Welcome Home" program to ensure that a supportive community assists every member of the National Guard returning from federal active duty.

Section 6 requires the Kentucky Department of Military Affairs to establish procedures to assist the spouses of military personnel with acquiring professional and occupational licenses, certificates, registrations, permits, or other credentials. All state agencies and credentialing boards shall assist the Kentucky Department of Military Affairs.

Section 7 requires the Kentucky Housing Corporation to assist members of the National Guard and Reserve during federal active duty. The corporation shall make grants to help these service members pay mortgages and rents. To qualify for a grant, a member of a state National Guard or Reserve component shall meet reasonable standards established by the corporation, including having family income equal to or less than 200 percent of the state or area median income. In addition, the corporation shall provide educational, technical, and ombudsman services to help maintain a mortgage during federal active duty.

Section 8 permits a state employee one day off from work, with pay, to attend the military deployment of a spouse and one day off from work, with pay, to attend the spouse's return from deployment.

Section 9 permits a student one day off from school to attend the military deployment of a parent and one day off from school to attend the parent's return from deployment.

Section 10 concerns child custody. When a child custody decree is modified due to the deployment outside the United States of a parent who is a regular member of the United States Armed Forces or of a parent who is on any federal active duty as a member of the National Guard or Reserve, the modification shall be temporary. The modification shall last only until the end of federal active duty.

Section 11 prohibits unemployment insurance disqualification of a worker who leaves employment due to the military transfer of the worker's spouse to another state. The prohibition against unemployment insurance disqualification applies if the worker and the military spouse travel to a state with a similar prohibition.

Section 12 creates a death benefit, in the amount of \$80,000, for the family of a National Guard or Reserve member who dies on federal active duty. This provision is retroactive to July 1, 2002. As of the end of September, no death benefits had been awarded due to difficulty in identifying family members.

Section 13 requires the Kentucky Department of Veterans Affairs to employ no fewer than 5 veterans' benefits regional administrators and no fewer than 20 veterans' benefits field representatives.

Section 14 allows a member of the military deployed outside the United States who has stored a motor vehicle on base during deployment to have 30 days from the date of his or her return to renew the vehicle's registration that expired during deployment. In addition, there shall be no delinquent fees, penalties, interest, or lien filing fees resulting from not paying the ad valorem taxes on the vehicle. Lastly, if applicable, the clerk shall process the renewal on a prorated basis.

Section 15 is a conforming amendment.

Section 16 excludes from taxation all income for all members of the Armed Forces, National Guard, and Reserve who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred. This provision applies to 2002 income and all subsequent income.

Section 17 makes Section 12 retroactive to July 1, 2002.

Section 18 applies the Section 16 tax exclusion to 2002 income and all subsequent income.

The committee next took up the Veterans Program Trust Fund and its funding. Co-Chair Mike Weaver stated that funding comes through the sale of special military license plates and voluntary contributions. He was under the impression that some county clerks are not doing enough to notify the public of special military license plates and the opportunity to make voluntary contributions.

The deputy commissioner of the Kentucky Department of Veterans Affairs stated that the department had made posters advertising the Veterans Program Trust Fund that had been mailed to all 120 county clerks. Furthermore, the program has been advertised on television and radio. The executive director of the Kentucky County Clerks Association said that perhaps some deputy county clerks were unaware of the program. However, his organization was eager to support the program.

The commissioner of the Commonwealth Office of Technology provided the committee with the statutorily mandated annual wireless interoperability report.

He said that the Kentucky Wireless Interoperability Executive Committee (KWIEC) met all six of its 2006 goals: complete the Mobile Data Project; complete the Voice Mutual Aid and Interoperability Project; pursue a strategic initiative for the exchange of wireless data among public safety agencies; participate in the SAFECOM Pilot Project to assess statewide interoperable communications statewide; and install the first phase of the Kentucky Emergency Warning System Project.

The commissioner outlined KWIEC's tentative 2007 goals: complete the Kentucky Emergency Warning System for the eastern segment of Kentucky; complete the deployment of KYWINS Messenger for the exchange of wireless data among public safety agencies; create a strategic plan for statewide interoperability as recommended by the SAFECOM Pilot Project; promote public awareness of communications interoperability; and secure funding for the Kentucky Emergency Warning System in the western segment of Kentucky.

In response to questions from legislators, the commissioner stated that the towers used for the Kentucky Emergency Warning System are state owned. Privatization of the towers does not appear to be a viable option due to the geographic location of the towers, agreements with the owners of land on which the towers sit, and the design of the towers.

The Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection met for a fourth and final time in November at the new Transportation Cabinet Building in Frankfort that houses the Kentucky Office of Homeland Security. The committee adopted four resolutions. One honored a Kentucky soldier who had died during Operation Iraqi Freedom. The other three resolutions honored committee members who are leaving the General Assembly: Rep. and Co-Chair Mike Weaver, Rep. Mary Harper, and Rep. Gerry Lynn.

The executive director of the Kentucky Office of Homeland Security provided the committee with the statutorily mandated annual homeland security report. She said KOHS has the goal of achieving voice interoperability for all first responders by the end of 2006. Progress continues to be made with regard to data interoperability. The wireless data backbone is now complete and mobile data computers are being installed in first response vehicles across Kentucky. The community preparedness program has been assessing communities with regard to infrastructure security. KOHS continues to improve transportation security. The recently renovated Kentucky Intelligence Fusion Center brings together local, state, and federal agencies in one facility to allow real-time collection and exchange of information and intelligence. Other steps have been taken to transmit more information more quickly. KOHS has improved first responder training. The citizen awareness and outreach program educates the public about how to respond to emergencies. Lastly, KOHS awards grants funded by the federal government. However, last year \$437 million in federal homeland security money arrived in Kentucky without passing through KOHS.

The director of the Kentucky Division of Emergency Management (KDEM) said he has a small staff devoted to establishing close relationships with emergency personnel throughout the Commonwealth. Kentucky is divided into 14 regions with a KDEM area manager assigned to each region. When there is an emergency in a region, KDEM works to establish communications, conduct search and rescue, meet basic human needs, restore critical infrastructure, open schools and businesses, and begin recovery. Over the past year, KDEM has been called on to respond to numerous emergencies, including an airplane crash, illnesses on a pleasure boat, train accidents, and flash floods.

Report of the 2006 Interim Joint Committee on State Government

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

Sen. Walter Blevins, Jr.
Sen. Julian M. Carroll
Sen. Carroll Gibson
Sen. Ernie Harris
Sen. Tom Jensen
Sen. Dan Kelly
Sen. Alice Kerr
Sen. Elizabeth Tori
Sen. Johnny Ray Turner
Sen. Ed Worley
Rep. Adrian K. Arnold
Rep. Eddie Ballard
Rep. Joe Barrows
Rep. Sheldon E. Baugh
Rep. Carolyn Belcher
Rep. Kevin D. Bratcher
Rep. James E. Bruce
Rep. Dwight D. Butler
Rep. Tim Couch
Rep. Joseph M. Fischer
Rep. David Floyd
Rep. Danny R. Ford

Rep. Derrick Graham
Rep. J. R. Gray
Rep. Mike Harmon
Rep. Melvin B. Henley
Rep. Charlie Hoffman
Rep. Jimmie Lee
Rep. Gross C. Lindsay
Rep. Gerry Lynn
Rep. Paul H. Marcotte
Rep. Mary Lou Marzian
Rep. Lonnie Napier
Rep. Stephen R. Nunn
Rep. Darryl T. Owens
Rep. Tanya G. Pullin
Rep. Jon David Reinhardt
Rep. Tom Riner
Rep. John Will Stacy
Rep. Kathy W. Stein
Rep. Tommy Thompson
Rep. Jim Wayne
Rep. Mike Weaver
Rep. Brent Yonts

LRC Staff: Joyce Crofts, Karen Armstrong-Cummings, Judy Fritz, Alisha Miller, Clint Newman, Karen Powell, Erica Warren, Stewart Willis, Peggy Sciantarelli, and Terisa Roland

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

Subcommittee Organization and Membership

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

Sen. Damon Thayer, Co-Chair
Rep. Adrian K. Arnold, Co-Chair

Sen. Julian M. Carroll

Sen. Carroll Gibson

Sen. Alice Forgy Kerr

Sen. Elizabeth Tori

Rep. Joe Barrows

Rep. Kevin D. Bratcher

Rep. James E. Bruce

Rep. Joseph M. Fischer

Rep. J. R. Gray

Rep. Mike Harmon

Rep. Melvin B. Henley

Rep. Gross C. Lindsay

Rep. Mary Lou Marzian

Rep. Darryl T. Owens

Rep. Jon David Reinhardt

Rep. Kathy W. Stein

Rep. Mike Cherry, ex officio

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; primary elections; 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 2006 Interim. The committee focused on the Kentucky Employees Health Plan; campaign finance reform, including the recommendations of the Registry of Election Finance's Advisory Task Force for the Development of the Registry's Legislative Package; public employee retirement funding issues; the merits of "defined benefit" versus "defined contribution" retirement plans; the final report of the Task Force on Local Taxation; executive orders reorganizing the Office of the Auditor of Public Accounts, the Personnel Cabinet, and the Finance and Administration Cabinet; administrative regulations of the State Board of Elections; and proposed legislation relating to the office of county surveyor.

In June, the committee received a status report on the Kentucky employees health insurance plan, which became fully self-insured in 2006. The Personnel Cabinet secretary, the commissioner of the Cabinet's Department for Employee Insurance, and the executive director of the Office of Health Policy in the Cabinet for Health and Family Services discussed the status of the health insurance fund, current enrollment, prescription drug utilization, wellness initiatives, 2006 legislation implementation, 2007 benefit plan options, and development of a Request for Proposals for voluntary dental and vision benefits. They reported that, based on current indicators, the switch to self-insurance appears to be a success.

The chair of the Registry of Election Finance and his staff presented the first in a series of presentations on campaign finance in Kentucky. In this presentation, they provided a historical overview of campaign finance statutory and case law. They also reviewed the top 10 features of Kentucky's current campaign finance laws.

In July, the committee focused on public employee retirement issues, specifically the spiraling cost of health insurance and pension funding in both state and local governments. The committee heard testimony from representatives of cities and counties. The heads of Kentucky Retirement Systems and the Kentucky Teachers' Retirement Systems discussed features of their systems' defined benefit plans and spoke about the disadvantages of defined contribution retirement plans. The committee reviewed executive reorganization orders of the Office of the Auditor of Public Accounts, the Personnel Cabinet, and the Finance and Administration Cabinet; and an administrative regulation of the State Board of Elections. The chair of the Registry of Election Finance and staff gave the second in a series of presentations on campaign finance in Kentucky. This presentation focused on a comparison of federal and state campaign finance laws, proposed legislative changes prompted by court challenges, and recommendations of the Registry's Advisory Task Force relating to statute simplification and adaptation to the paperless society of the 21st century.

In September, the committee met in conjunction with the Interim Joint Committee on Local Government. In the morning session, Legislative Research Commission staff presented an overview of the final report and recommendations of the Task Force on Local Taxation, which was established pursuant to House Bill 272, enacted in the 2005 Regular Session. This was followed by an extended period of discussion. In the afternoon session, the chair and staff of the Registry of Election Finance reviewed recommendations of the Advisory Task Force that would require legislative action. This was the third in a series of four planned presentations on campaign finance in Kentucky. Finally, the secretary of the Personnel Cabinet and staff discussed details of the Public Employee Health Insurance Plan for 2007.

In October, the committee reviewed the statewide single audit of the Personnel Cabinet for the year ended June 30, 2005, with representatives from the State Auditor's Office and the Personnel Cabinet. The discussion focused on the audit findings relating to voter leave, "Block 50" overtime payments, and the cabinet's business continuity plan. The executive director of the Office for Employee and Organizational Development reported on the workforce planning initiative that is underway in the Personnel Cabinet, in anticipation of an expected surge in state retirements before January 1, 2009. The committee heard testimony from the executive director of Kentucky Retirement Systems regarding the potential impact of the 2009 retirement window and discussed the possibility of allowing a later retirement date for those who already qualify under the window. Finally, the committee was briefed by staff of the Kentucky League of Cities regarding its legislative proposals for 2007.

At the final meeting in November, the committee again focused on retirement funding issues. A representative of TIAA-CREF explained the benefits and features offered by defined contribution plans. The research director of the National Association of State Retirement Administrators, along with the heads of Kentucky Retirement Systems and the Kentucky Teachers' Retirement System, spoke about the advantages of defined benefit retirement plans when compared to defined contribution plans.

The chair of the Registry of Election Finance and staff completed the series of presentations on campaign finance by concluding their review of the Advisory Task Force

recommendations that require legislative action. Lastly, representatives of the Kentucky Association of Professional Surveyors spoke in support of legislation to amend the state constitution relating to the office of county surveyor.

Subcommittee Activity

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

The Task Force on Elections Constitutional Amendments, and Intergovernmental Affairs held four meetings during the 2006 Interim.

The task force held its first meeting on June 27. The task force was given an update from the executive director of the State Board of Elections regarding the primary election and the use of electronic voting systems. The executive director of the Kentucky Registry of Election Finance made a presentation to the task force on the 10 most common filing errors made by candidates.

The second meeting was held on July 25. The executive director of the Kentucky Registry of Election Finance briefly discussed the legislative recommendations from the Kentucky Registry of Election Finance's Advisory Task Force Report. Also, the executive director of the State Board of Elections, representatives from the Kentucky County Judge/Executive Association, the Kentucky Association of Counties, the Kentucky Magistrates and Commissioners Association, and the Kentucky County Clerks Association appeared before the task force to appeal for an increase in the pay scale for election day workers and for additional money from the state to defer the costs of elections.

The task force held its third meeting on September 26. Sen. Gerald Neal and Rep. Jessie Crenshaw appeared before the task force to talk about bills that each filed during the 2006 Session to restore voting rights to convicted felons. The Secretary of State and the executive director of the State Board of Elections gave information about the launching of a new voter education program, financed by Help America Vote Act funds.

The final task force meeting was held on November 28. The Secretary of State; the executive director of the State Board of Elections; and the county clerks of Fayette, Leslie, and Franklin Counties discussed the November 7, 2006, election and answered questions regarding problems such as long lines at the polls and the slow tabulation of election results. The president of Harp Enterprises, Inc., a distributor of the eSlate electronic voting systems used in 96 Kentucky counties, discussed the importance of training poll workers and of allowing the voting public to become accustomed to the new eSlate voting machines. Discussion by the members of the task force followed.

**Report of the 2006
Interim Joint Committee on
Transportation**

**Sen. Brent Guthrie, Co-Chair
Rep. Hubert Collins, Co-Chair**

Sen. Walter Blevins
Sen. Charles Borders
Sen. David Boswell
Sen. Bob Leeper
Sen. R.J. Palmer
Sen. Richard Roeding
Sen. Richard Sanders
Sen. Gary Tapp
Sen. Damon Thayer
Sen. David Williams
Sen. Ed Worley
Rep. John Arnold
Rep. Eddie Ballard
Rep. Carolyn Belcher
Rep. Denver Butler
Rep. Howard Cornett
Rep. Jim DeCesare
Rep. J.R. Gray

Rep. Keith Hall
Rep. Melvin Henley
Rep. Jimmie Lee
Rep. Paul Marcotte
Rep. Charles Meade
Rep. Charles Miller
Rep. Russ Mobley
Rep. Lonnie Napier
Rep. Rick Nelson
Rep. Don Pasley
Rep. Marie Rader
Rep. Rick Rand
Rep. Ancel Smith
Rep. Jim Stewart
Rep. Tommy Turner
Rep. John Vincent
Rep. Michael Weaver

LRC Staff: John Snyder, Jim Roberts, Brandon White, and Linda Hughes

**Presented to the
Legislative Research Commission
and the
2007 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 2006 Interim.

During the first meeting, on June 6, the committee heard testimony from the Kentucky State Police on the implementation of 2006 House Bill 707, relating to commercial driver's licenses (CDL). The committee learned that there was a considerable amount of backlog in testing students from Kentucky's 14 CDL schools, mostly due to student retesting. Under HB 707, the State Police may charge a testing fee of \$150 for each out-of-state student and \$50 for in-state students. The testing fee allows for three retests. If additional tests are required, the student is charged another \$50 for three additional testings. This tiered fee structure and the retesting fees will allow the Kentucky State Police to hire additional examiners to help eliminate the backlog for student testing.

The State Police reports to the governing body of the CDL schools, the State Board of Proprietary Education, any CDL school that receives a 30 percent or higher failure rate. Once the board receives a report on a particular school, it requires written notification from that school on how it plans to rectify its low student passing rate.

Prior to the committee meeting, staff provided the members with a summary of the 2006 enacted transportation-related legislation. The Kentucky Transportation Cabinet noted that all of the summarized 2006 legislation was either in place or would be by the laws' implementation dates. The cabinet particularly noted that with the passage of Senate Bill 44, the quick clearance legislation, as well as the graduated driver's license legislation and the primary seat belt law, fewer Kentuckians would lose their lives each year on the state's highways.

Last on this agenda was an update on the state's Six Year Highway Plan. The Transportation Cabinet noted that it would have a surplus of approximately \$35 million in fiscal year 2006, which will revert back to the Road Fund. The surplus was partly from the cabinet eliminating 821 positions during the last four years and also from the legislature freezing the Gasoline Tax rate increase of 1 cent in FY 2005 and another 1.1 cents in FY 2006. The surplus trend should continue in the future due to the General Assembly's

foresight in enacting two measures within HB 380, the budget bill, that pertained to motor vehicle usage tax. The first measure exempted out-of-state purchases of vehicles from Kentucky sales tax only if their home states have a reciprocal agreement with Kentucky. It is anticipated that this provision would generate between \$12 and \$15 million, annually. The second provision set a valuation floor of 50 percent of trade-in value on vehicle purchases with an affidavit. The Department of Revenue reports that 60,000 affidavits have been filed at the minimum price of \$100, often on vehicles that would seem to be worth more. This change is estimated to bring in \$10-\$15 million per year.

During the committee's July 6 meeting, the committee learned of the Transportation Cabinet's integrated safety and security enforcement system (ISSES), which includes radiation detection of radioactive materials passing through the weigh station; thermal imaging using infrared cameras that allow for rapid identification of trucks with brake deficiencies; and license plate readers. In 2007, there will be three additional ISSES units. Working as partners with the cabinet and with ISSES are the Kentucky Vehicle Enforcement (KVE), Transportation Center at the University of Kentucky, Federal Motor Carrier Safety Administration, Oak Ridge National Laboratory, and Transportation Security Technologies LLC (Transtec). Kentucky's first ISSES installation, on northbound I-75 in Laurel County, is the first commercial integrated system in the nation. Kentucky is the lead state with the Department of Homeland Security in its initiative called Southeast Transportation Corridor Pilot. This pilot program will use technologies already in place and will be the model for other national corridor projects.

There are three divisions within KVE: Field Operations, Special Operations, and Administrative Services. Each of the three divisions are staffed with sworn law enforcement officers, regulatory weight and safety inspectors, and civilian administrative staff. KVE has a total of 240 employees: 162 sworn officers, 34 safety inspectors, and 44 civilians whose duties may include clerical, computer operations, data entry, and data analysis. Some enforcement strategies conducted by KVE entail multistate enforcement blitzes, targeted aggressive driving stings where officers ride along in trucks to spot violators, and aviation support monitoring. Kentucky is one of a few states that conducts multistate blitzes; it conducts these blitzes with all of its surrounding states.

The Special Operations Division places special emphasis on interdiction of illegal cargo, including drug contraband. During the past two years, this division has seized 1,397 pounds of marijuana and 45 pounds of cocaine and has been awarded \$947,164 by the court for monies seized in anti-drug operations. The division also conducts "Desert Snow" interdiction training courses for agencies across the eastern region of the United States. This training focuses on the interdiction of hazardous devices such as explosives that could be used in terrorist attacks. In 2005, KVE made 1,819 arrests for driving under the influence (DUI), with increasing incidents of DUI involving drug impairment. Additionally, 21 of the division's officers have been trained in how to better identify and prosecute drug-impaired drivers.

In 2004, KVE screened 7.5 million trucks at its scale facilities and weighed 90,679 trucks on statistical scales and another 12,742 trucks on portable scales. Its inspectors also

conducted more than 67,273 safety inspections. Kentucky is second in the nation (Oregon being first) in the number of truck inspections it conducts daily—between 4,000 and 6,000. These inspections verify the trucks credentials (i.e., if the taxes are paid up to date and if registration is current) as well as the driver's safety record. One in 20 drivers, with good driving records, are pulled over for inspection, and about 50 percent of carriers with marginal safety records are inspected.

In 2004, KVE began an effort to bring overweight coal trucks into compliance. Department statistics showed that in April 2004, 262 (77.1 percent) of the 340 coal trucks weighed were overweight and in violation. In April 2005, 1,167 coal trucks were weighed with 44 (3.9 percent) overweight; and in April 2006, there were 1840 trucks weighed with only 54 (2.9 percent) overweight.

KVE has put State Police troopers in some trucks to witness firsthand the difficulties truck drivers experience. Committee members were invited to contact the office if they would like to ride with a driver to witness the difficulties drivers experience.

A representative of the Kentucky Motor Transport Association, Inc. said the association fully endorses the state's process and technology for making Kentucky's highways safer. The days of bad relationships between the trucking industry and the state's enforcement officers are over, and while there will always be a few complaints or problems, for the most part he believes everyone is working together to make the state's highways safer. The association representative did comment that Kentucky needs more truck driver rest havens, especially on east-to-west highways. He noted that this is a critical problem and his association would like to see the state add more rest havens.

A spokesperson for the Kentucky Department of Aviation gave an overview of the Six-Year Aviation Plan. In FY 2005, the department received \$92,691,733 in federal grants. Of that federal money, \$69,317,419 went the commercial airports in Northern Kentucky, Louisville, and Lexington, with the remaining \$23,374,314 used for general aviation. Besides the three major commercial airports, there are 58 public-use general aviation airports, 83 private airstrips, and 54 heliports in Kentucky. Of the surrounding states, Kentucky ranks second to last with its 58 public-use airports: Missouri has 130, Illinois 114, Indiana 95, Ohio 164, West Virginia 35, Virginia 67, and Tennessee 79. The state currently ranks second to last in the SEC states and third from last in the nation's airport system.

Kentucky has fallen behind its surrounding states, with the exception of West Virginia, in the amount of money devoted to the improvement of airport infrastructure. Some initiatives the department is undertaking are a new airport directory, which lists contact personnel, services offered, ground transportation, and accommodations; the new Horizons Newsletter with more than 7,000 readers; a departmental Web site, which lists calendar of events, economic development, education, Airport Zoning Commission, pilot's corner, and safety and inspections; and new airport signs.

The commissioner informed the committee that to fully fund the aviation needs of the Commonwealth, \$48 million is required in fiscal years 2007 and 2008 and \$36 million for the

next four years. Current the funding availability identifies \$36 million in the first two years and \$52 million in the next four years. Projects noted in the plan include eight airport extensions, seven airport improvements, and four new airports. Also included is asphalt strengthening for 15 airports and runway widening and strengthening at another four airports. General aviation airports will become even more important in the future due to overcrowding at the major airports and the availability of new lower cost light jets.

The committee approved two Transportation Cabinet Executive Orders: E. O. 2006-682 and E. O. 2006-685.

At the September 5 meeting, the committee discussed Kentucky's railroads organization, operation, and its relationship with the public. A railroad spokesperson said there are three classifications of freight railroads, as defined by the Surface Transportation Board. Class I railroads are those with 2004 operating revenues of at least \$289.4 million. Class I Kentucky railroads are BNSF, CSX, Canadian National, Canadian Pacific, and Norfolk-Southern. Class I carriers comprise just 1 percent of the carriers but account for 70 percent of the industry's mileage operated, 89 percent of its employees, and 93 percent of its freight revenues. And Class II (regional) railroads are those with at least 350 route miles and/or revenue between \$40 million and the Class I threshold. The Paducah & Louisville Railway Company is the only Class II railroad operating in Kentucky.

Class III (local linehaul) railroads operate under less than 350 miles and earn less than \$40 million per year. They generally perform point-to-point service over short distances. Kentucky's Class III railroads are Fredonia Valley; Kentucky & Tennessee; Louisville & Indiana; R.J. Corman, which includes R.J. Corman Central Kentucky Lines, R.J. Corman Memphis Lines, and R.J. Corman Bardstown Lines; TennKen; Western Kentucky; and Transkentucky Transportation.

Kentucky's freight railroads are a vital force in the state and national economies and a crucial component of the state's transportation systems. More than a dozen railroads operate in Kentucky, providing service to customers across a 2,600-mile rail network that reaches all corners of the state. The majority of freight railroads in Kentucky are privately owned, and unlike barges and trucks, railroads must build, maintain and pay state and local property taxes on their rights-of-way. A major concern of any railroad is potential legislation that addresses work rules of railroad employees. The opinion of the railroads is that these matters are best handled through negotiations with employees rather than through legislative action.

Kentucky's freight railroads contributed approximately \$500 million directly to the state's economy in 2004 through wages and retirement benefits. There were approximately 4,868 active Kentucky employees with a payroll of \$264 million in 2004. Kentucky's railroad employees are near the top of the national wage scale, with average earnings of \$61,000 and another \$23,000 in fringe benefits.

Railroads are hauling more commodities today than ever before, and they carry 16 percent of the nation's freight by tonnage. The system accounts for 28 percent of total ton miles, 40 percent of intercity ton-miles, and 6 percent of freight value. Since 1994, the short line railroads have moved more than 8,900 car units of coal, which is equivalent to more than

one million coal haul truckloads. Also, while Kentucky ranks 24th nationally among states for number of track miles, it ranks 5th in the number of actual freight car miles.

CSX Transportation, Inc. has its major Kentucky rail yards in Louisville and Russell County. CSX has an employee base of 3,500 and an annual payroll of \$160 million. It serves more than 400 industries with products such as coal, synthetic fuel, automobiles, and appliances. Its route covers 1,827 miles, with 2,000 grade crossings. It carries 755,323 carloads of freight annually.

The R.J. Corman Railroad Group stated that by year 2020, there will be a 50 percent increase in rail imports/exports; railroads spend five times more for upkeep than other types of businesses.

Norfolk Southern Corporation has its major rail yard in Louisville. It has 1,184 employees with an annual payroll of \$57.7 million and ships a variety of freight, including coal, transportation equipment, chemicals, and allied products.

The Transportation Cabinet highlighted a new agreement between the railroads operating in Kentucky and the Transportation Cabinet. The cabinet is now the contact for citizens' railroad concerns. Before the end of 2006, the cabinet will have a contact person located in each district office. Once the system is functional, the cabinet and the railroads plan to have all questions answered within a 14-working day period.

The next item at the meeting was an overview of Kentucky's funding for public transit. Representatives of the state's public transit agencies thanked the Kentucky Legislature for allocating to the Transit Authority of River City (TARC), the Transit Authority of Northern Kentucky (TANK), and LexTran, the \$2.5 million needed to match federal funds in FY 2007. It was noted that, to date in fiscal year 2006, TARC's ridership is up 8.2 percent, TANK's is up 5 percent, and LexTran's is up 34 percent.

TARC serves 15.8 million customers annually; has a \$62 million annual budget and 677 team members; and operates 263 buses, 9 trolleys, and 80 paratransit vehicles. TARC traveled approximately 12.1 million miles in fiscal year 2006 over its 53 routes in five counties. TARC's needs are approximately 16 replacement vehicles yearly (currently the majority of its fleet is more than eight years old); assistance with the higher fuel costs; \$2.5 million yearly to provide more service to meet demand, infrastructure improvements, and customer amenities; and updated technology (its radio system is 14 years old).

TANK serves approximately 3.7 million customers yearly, has a \$19.2 million annual budget and 263 team members, and operates 101 buses and 27 paratransit vehicles. It traveled more than 4.4 million miles last year over its 27 routes in three counties. TANK's needs are 8 to 10 replacement buses and 3 to 5 paratransit vehicles, annually; matching money for hybrid buses; and technology improvements (scheduling software, fareboxes, trip planning, and real-time information).

LexTran serves 3.8 million customers yearly, has a \$12 million annual budget and 161 team members, and operates 58 buses and 30 paratransit vehicles. It traveled more than 1.5 million miles last year over its 22 routes. LexTran's needs are five replacement buses annually; support for growth and upcoming equestrian games in 2010; more service to meet demand; passenger amenities (shelters); technology improvements (radio system, AVL, fareboxes); and continued support of toll credits and cash match.

Kentucky ranks 36th in the nation in state funding, which is lower than several of its surrounding states (i.e., Illinois at 7th, Indiana at 15th, Tennessee at 19th, Ohio at 23rd, and West Virginia at 29th).

These three transit authorities asked for three things: 1) dedicated funding each year to ensure that they can match all federal money in order to keep their vehicles updated, safe, and reliable and to expand service to meet future demands; 2) that the state consider funding of \$2.5 million in fiscal years 2009 and 2010; and 3) continued support of toll credits.

The committee approved Executive Order 2006-839.

The committee's October 3 meeting was held in Bowling Green. Following a slide show concerning economic development in south central Kentucky and the Kentucky Transpark, a spokesperson for Transpark said that a regional coalition of three cities and four counties are the financial supporters of the \$25 million dollar Warren County bond issue for the Transpark. He said that the bond issue along with the state's \$6 million seed grant, the \$1.2 million for internal roads, the \$1.3 million for highway widening on Kentucky Route 68 and Route 80, the \$4.5 million for rail infrastructure, and the \$7.5 million for the Bowling Green Technical College makes Transpark a vital entity in south central Kentucky. This technological business and commerce park offers easy access to highway and rail transportation and is environmentally friendly and attractive.

Bowling Green Metalforming, which started production in June 2005, currently employs 700 in its 1 million square-foot facility. When fully staffed, it will employ approximately 1,100 employees. The Bowling Green Technical College, Transpark Campus, offers apprenticeship programs in tool and dye and mechatronics, as well as other customized training for regional industries. The General Assembly's recent appropriation to construct an Interstate Spur to the Transpark would further entice new industry to the area.

The Transportation Cabinet presented an update on the major projects scheduled for the next 12 months in the Barren River Area Development District. Some of the bigger projects noted were a bridge replacement on KY 100 in Allen County with \$2 million in state funds; overpass construction on KY 255 in Barren County with \$1.7 million in federal funds; partial repaving on the Louie Nunn Parkway in Barren County with \$2.680 million in state funds; widening I-65 to six lanes in Simpson County with \$26 million in GARVEE Bonds; widening another portion of I-65 using \$46 million in GARVEE Bonds; widening portions of I-65 in Warren County using \$28 million in GARVEE Bonds; and extending the William Natcher Parkway to US-231 in Warren County with \$30 million in state funds.

The executive director of the Office of Budget and Fiscal Management within the Kentucky Transportation Cabinet explained fuel tax revenue sharing to the committee. She said that currently, the total per gallon motor fuel tax on passenger vehicles is 19.7 cents for gasoline and 16.7 cents for diesel; on motor carriers the total rates are 22.7 cents for gasoline and 23.6 cents for diesel fuel. The tax amount includes the 1.4 cents per gallon Underground Storage Tank fee, which does not go to the Road Fund. The motor fuels tax annually generates approximately \$562.8 million for the state Road Fund. A 1 cent increase in motor fuels taxes generates approximately \$30 million to that fund. The allocation of motor fuels tax for fiscal year 2007 shows 51.8 percent for state revenues, 22.2 percent for Rural Secondary, 18.3 percent for County Road Aid, and 7.7 percent for Municipal Road Aid. Kentucky's gas tax ranks 40th in the nation and is 5 cents lower than the average tax rate of its surrounding states.

The commissioner of the Department of Rural and Municipal Aid, said that Phase I Formula Bond Funds for the Barren River Area Development District are \$4,755,074 in county bonds and \$1,205,087 in municipal bonds; and the Phase II Discretionary Bond Funds are \$6,379,153 in county bonds and \$1,710,500 in municipal bonds.

The committee approved Executive Order 2006-1015 and offered no objection to Administrative Regulation 502 KAR 10:110 & E (third-party CDL skills test examiner standards).

The committee's last meeting was held on November 9. At that meeting, the members discussed the cost and implementation of the Federal REAL ID Act. A spokesperson for the Transportation Cabinet stated that while there is no financing for the mandate, Kentucky is the only state to have actually received a federal grant of \$3 million toward implementation as a pilot project.

He said that the Act calls for all states to have their driver's license (DL) or identification (ID) systems certified by the Department of Homeland Security (DHS) by May 11, 2008. Failing to do so will restrict the citizens from those states from using that state's DL/ID as identification for federal purposes, such as at airports, Social Security offices, and federal court buildings.

The cabinet official stated that the REAL ID Act calls for states to employ technology to capture images of identity source documents and store those documents for 10 years if electronically kept or 7 years if retained on paper. States will be required to share their driver's license information with other states. The official said that the minimum data required on a driver's license will be full, legal name; date of birth; gender; DL number; digital photo; address; and signature.

The Act defines certain identity-proofing measures that must take place prior to issuance of a driver's license, such as checking the DHS's Systematic Alien Verification, which Kentucky will have in place by fiscal year 2007; verifying the Social Security number with the Social Security Administration, which Kentucky is currently doing; and other requirements that have yet to be identified by the federal government. States must ensure the

physical security of locations where DL/IDs are produced and stored. Persons authorized to produce DL/IDs must receive specialized training, such as fraudulent document recognition, and must receive security clearance.

In closing, the official stated that the U.S. Department of Homeland Security has redirected Kentucky's pilot program efforts to focus on the verification of birth certificates. He said this area causes some problems since there are a number of different types of birth certificates, and in rare cases, some Kentucky citizens were never issued a birth certificate. The cabinet has met with the National Association of Public Health Statistics and Information Systems regarding this dilemma. He said the state has yet to receive a federal directive on how to resolve the issue.

When asked if the cabinet will receive all of the federal guidelines for the Act prior to May 2008, the cabinet official responded that he was hopeful the federal rules would be issued soon so the state could identify key components of implementation.

He was then asked how the cabinet planned to have all of the components in place and be able to issue new driver's licenses by May 2008. He clarified that while the components needed to be in place by May 2008, the actual issuance of new driver's licenses may occur during the state's normal four-year license turn-around time, depending on federal rules.

The next item on the committee's agenda was a discussion involving the cost of contracting out the Automated Vehicle Information System (AVIS). A spokesperson for the Transportation Cabinet stated that Kentucky had just received a \$700,000 grant for the state's AVIS replacement pilot program. He said that this grant will allow Kentucky to place new equipment in three of the five smaller counties it planned to use for this program.

He stated that there are currently three to five vendors offering systems that the cabinet is interested in examining. He informed the committee that the cabinet will host a demonstration from these vendors in November. The cabinet invited county clerks, automobile dealers, and other interested parties, including the committee members, to this demonstration. He said that it is the cabinet's hope that it will identify the system that most meets Kentucky's needs.

The executive director for the Office of Budget and Fiscal Management within the Transportation Cabinet stated that she could not give the committee a cost estimate for the state's replacement to AVIS because the state had yet to identify the system's replacement. She noted that because of 2006 HB 537, in January 2007, the state will increase its motor vehicle registration fees by \$6, raising it to \$21. Half of the increase will go directly to the county clerks to be used at their discretion. This \$3 increase to the county clerks is estimated to generate an annual revenue of \$10-\$13 million.

The executive director said that the remaining \$3 will be distributed as follows: \$1 will go toward the AVIS replacement, \$1 to technology in the county clerk offices, and \$1 to the county clerks for office revenue supplement. The \$1 for technology and the \$1 for office

revenue supplement are to be used at the clerks' discretions. She said that the \$1 for the AVIS replacement will be collected and placed in a special fund until fiscal year 2009. That collection is estimated to raise approximately \$5 million by fiscal year 2009 and will be used for the new AVIS replacement.

She stated that the cabinet had yet to identify an additional revenue source for the purchase of the AVIS replacement above the \$1 fee, which should bring in \$3-\$4 million annually.

The last item on the committee's agenda was the review of nine administrative regulations: 600 KAR 3:030, 600 KAR 6:010, 600 KAR 6:030, 600 KAR 6:040, 600 KAR 6:050, 600 KAR 6:060, 600 KAR 6:065, 600 KAR 6:070, and 600 KAR 6:080. The committee offered no objections following the explanations.

Report of the 2006 Kentucky Broadband Task Force

Sen. Ernie Harris, Co-Chair
Rep. Charlie Hoffman, Co-Chair

Sen. David E. Boswell	Libby Marshall
Sen. Tom Jensen	Darrell Maynard
Rep. W. Keith Hall	Mark Romito
Rep. Marie L. Rader	Tony Taylor
Secretary LaJuana Wilcher	Lizabeth Thacker
Commissioner Christopher L. Lilly	Brad Tracy
Patsy Judd	Charles Watkins
Daniel Logsdon	James Welch
William Magruder	

LRC Staff: D. Todd Littlefield, Taylor Moore, and Susan Spoonamore

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

Kentucky Broadband Task Force

Jurisdiction: To examine the expansion of the availability of broadband Internet access in the Commonwealth, including, but not limited to, aspects such as regulation, cost, access to facilities, and market competition; and to report findings and recommendations for increasing broadband deployment to the Legislative Research Commission and the Governor. Broadband is defined under KRS 278.5461 as “any service that is used to deliver video or to provide access to the Internet and that consists of the offering of the capability to transmit information at a data rate that is generally not less than two hundred (200) kilobits per second in at least one direction; or any service that combines computer processing, information storage, and protocol conversion to enable users to access Internet content and services.”

Task Force Activity

During the 2006 Interim, the Kentucky Broadband Task Force held one meeting.

The task force held its meeting on September 25 in Frankfort. Representatives of ConnectKentucky presented highlights of its 2006 Summer Research Series results regarding the deployment and adoption of broadband Internet access in the Commonwealth. ConnectKentucky representatives also outlined the organization’s suggestions for policy recommendations of the Kentucky Broadband Task Force. The task force reviewed a working draft of its final report and suggested changes in emphasis and wording that were incorporated into the draft final report.

The *Final Report of the Kentucky Broadband Task Force* was submitted to the Legislative Research Commission and the Governor’s office on November 15 and was published by LRC as Research Memorandum No. 501.

**Report of the
Task Force on Local Taxation
Established by 2005 HB 272**

**Sen. Damon Thayer, Co-Chair
Rep. Charlie Hoffman Co-Chair**

Sen. Denise Harper Angel
Sen. Ernie Harris
Rep. Steve Riggs
Rep. Arnold Simpson
Secretary Gene Strong
Commissioner Ellen Williams
Mayor Glenn Caldwell
Judge R.T. (Tucker) Daniel
Mayor Tom Guidugli

Judge Larry Whitaker
Steve Hoskins
Vince Lange
Gary Larimore
Kevin Leonard
Bert May
Willie McElroy
Richard Tanner
Bill Thielen

LRC Staff: Pam Thomas, Jamie Franklin, Mike Clark, Donna Gaines, Mark Mitchell, Joe Pinczewski-Lee, Barry Boardman, John Scott, Charlotte Quarles, and Sheri Mahan

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

Task Force on Local Taxation

Jurisdiction: The 20-member task force is charged with the following responsibilities: review the current structure of local taxation, including the constitutional requirements regarding local taxation; current taxes imposed by local governments including the rates and tax base; the local tax burden in various Kentucky cities and counties; revenues generated by type of tax, including all permissible local taxes; and existing economic development incentives available to local governments and how effectively those incentives are used by local governments. The task force is required to report written recommendations and any proposed legislation to the Interim Joint Committees on Appropriations and Revenue and Local Government no later than November 1, 2005¹. The report and recommendations must address the following areas: the identification of any constitutional impediments to the development of a modern local tax system, and proposed constitutional amendments to address any identified issues related to existing constitutional language; an analysis of the existing tax structure, including identification of the taxes that are effective and those that are ineffective; the identification and recommendation of alternative methods for generating a comparable amount of local revenue, including the imposition of a local sales tax; and an analysis of the existing economic development incentive programs available to local governments, and recommendation of alternative methods for promoting capital investment and job creation on the local level.

Task Force Activity

During the 2006 Interim, the Task Force on Local Taxation held four meetings.

The first meeting was held on April 13. Representatives from the Governor's Office for Local Development (GOLD) discussed general local taxation issues and the function of GOLD. They discussed the duties and responsibilities of the state local finance officer and the state local debt officer and provided an overview of mandated financial reporting by counties.

Next, representatives of the Kentucky League of Cities discussed tax structure problems and fiscal issues facing Kentucky city governments. They gave an overview of some of the financial difficulties facing cities and discussed statutory limits that preempt local decision making and prevent local officials from making use of certain tax options. They discussed tax base conflicts that exist between cities and counties with respect to the occupational and insurance premium tax base because of mandatory credit requirements. Finally, they discussed the limits imposed by House Bill 44, limits on restaurant taxes, and limits on transient room taxes.

Finally, a representative from the Kentucky Association of Counties reviewed the county tax structure and current mandated county functions. He discussed the conflicts that exist between cities and counties with respect to the occupational and insurance premium tax

¹ The reporting deadline was extended by the Legislative Research Commission to July 1, 2006.

mandatory credit requirements. He stated that counties cannot keep up with the mandated demands under the current tax structure. He suggested that legislation be introduced encouraging tax sharing between counties and cities of the occupational and insurance premium taxes.

The second meeting of the task force was held on May 11. The task force heard public testimony from various representatives including the mayors of Morehead, Paducah, and Owensboro; a representative of the Bluegrass Institute; the executive director of the Kentucky Property Valuation Administrator's Association; various representatives from the greater northern Kentucky area; and a fireman from Jefferson County.

The third meeting of the task force was held on June 6. The task force discussed proposed recommendations for inclusion in the final report.

The fourth meeting of the task force was held on June 27. The task force reviewed and finalized the task force final report.

**Report of the 2006
Administrative Regulation Review Subcommittee**

**Sen. Richard “Dick” Roeding, Co-Chair
Rep. Tanya G. Pullin, Co-Chair**

Sen. Alice Kerr
Sen. Joey Pendleton
Sen. Gary Tapp

Rep. James E. Bruce
Rep. Jimmie Lee
Rep. Jon David Reinhardt

LRC Staff: Emily Caudill, Dave Nicholas, Donna Little, Laura Milam, Kara Daniel,
Mark Matics, Emily Harkenrider, Roslyn Hendrickson, and Ellen Steinberg

**Presented to the
Legislative Research Commission
and the
2007 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 established the subcommittee as a permanent subcommittee of the Legislative Research Commission. The subcommittee meets monthly and reviews approximately 55 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 raised concerning 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 the Legislative Research Commission for a second review by the legislative subcommittee with jurisdiction over the subject matter.

During the period January 2006 through November 15, 2006, executive branch agencies filed 120 emergency administrative regulations (an increase of 54 percent over 2005) and 671 ordinary administrative regulations (an increase of 43 percent). Of the ordinary administrative regulations filed, 139 were new (an increase of 46 percent), 426 were amendments to existing administrative regulations (an increase of 30 percent), and 106 were amended after comments (an increase of 126 percent). The Administrative Regulation Review Subcommittee reviewed all of the ordinary administrative regulations that were not withdrawn or expired prior to the date of its monthly subcommittee meetings, in accordance with the provisions of KRS Chapter 13A. Of those ordinary administrative regulations reviewed, none was found deficient, 418 were amended to conform with KRS Chapter 13A and other appropriate statutes (an increase of 56 percent), and 78 were approved as submitted by the agency (an increase of 7v). Additionally, 3 administrative regulations expired (for failure to meet statutory deadlines), and a total of 57 administrative regulations were withdrawn by the agency during this period. (The total does not include the 146 administrative regulations scheduled for review during the subcommittee's December 2006 or January 2007 meetings.)

In January, June, and November, the subcommittee staff and the regulations compiler conducted three training sessions for representatives of several executive branch agencies, including the Finance and Administration Cabinet, the Environmental and Public Protection Cabinet, and the Commerce Cabinet. The two- to three-hour training sessions focused on the administrative regulations process and the requirements for drafting and formatting

administrative regulations. Approximately 150 representatives of those agencies participated in this training. The same material was also presented informally on many different occasions to small groups of two to five persons from executive branch agencies as requested by the agencies.

Additionally, three subcommittee staff members attended the National Conference of State Legislatures' Legislative Editor's Conference in October. During the conference, they gave a presentation titled "Working with Agencies - Editing Agency Bill Drafts, Rules and Regulations." Subcommittee staff worked with the University of Kentucky College of Law's Office of Continuing Legal Education to update its publication regarding administrative agency rule making in Kentucky. That final product, *Kentucky Administrative Law, Second Edition*, was published in November 2006 and includes a chapter written and edited by subcommittee staff titled "Administrative Agency Rulemaking."

In August 2006, the Legislative Research Commission published the Administrative Regulations Service of Kentucky, which contains administrative regulations in effect as of July 15 of each year.

Report of the 2006 Capital Planning Advisory Board

Sen. Jack Westwood, Co-Chair
Rep. Rick Rand, Co-Chair

Sen. David Boswell
Rep. Ron Crimm
Bradford Cowgill
James Deckard
Ben S. Fletcher
Paul Gannoe
John Hicks

William H. Hintze, Jr.
William H. May III
Jason M. Nemes
Laurel True
Garlan Vanhook
Judge William Wehr
Melinda Wheeler

LRC Staff: Pat Ingram, Nancy Osborne, Shawn Bowen, and Debbie Rodgers

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

Capital Planning Advisory Board

Jurisdiction: The 1990 General Assembly established the Capital Planning Advisory Board (CPAB) of the Kentucky General Assembly, comprised of members representing all three branches of government. Pursuant to statute, the board is to create a six-year comprehensive statewide capital improvements plan, encompassing all state agencies and universities, to be submitted to the heads of the three branches—the governor, the chief justice, and the Legislative Research Commission—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

Since adjournment of the 2006 Regular Session, the Capital Planning Advisory Board has held three meetings and a fourth meeting is scheduled for December.

On May 23, the board convened at the University of Louisville (UofL), Shelby Campus. UofL representatives made a presentation on future plans for development of the Shelby Campus, and a campus tour followed the meeting. Additionally, the Council on Postsecondary Education's assistant vice president for finance provided an overview of the analysis being undertaken to evaluate the condition of the state's postsecondary education facilities, and CPAB staff provided updates on capital projects-related actions of the 2006 General Assembly, including legislation based on CPAB recommendations and capital projects authorized in the 2006-08 budget.

On July 24, the board met at the System Office of the Kentucky Community and Technical College System (KCTCS) in Versailles. The agenda for this meeting focused on energy efficiency and sustainable/green building construction. Presentations were made by the director of the Division of Renewable Energy and Energy Efficiency, the commissioner of the Department for Facilities and Support Services, and representatives of KCTCS including the architect that has been engaged to design the new Bluegrass Community and Technical College classroom/lab building at the Cooper Campus. This facility is being designed to seek certification under the Leadership in Energy and Environmental Design program of the U.S. Green Buildings Council.

The third meeting of the board was held on October 23 on the Kentucky State University (KSU) campus. The agenda included a presentation on current and proposed KSU capital projects and a tour of the campus. There was also a report on state construction projects in Frankfort, with a focus on the long-range plan for housing state agencies in the Frankfort area that is mandated by KRS 42.425.

A fourth meeting is scheduled for December 6. That agenda will include action on the instructions and forms for the 2008-2014 agency capital plan submissions, which are due on April 15, 2007. The planned agenda also includes a report from the secretary of the

Commerce Cabinet addressing current and proposed projects of the Department of Parks and the Kentucky Horse Park.

Capital Projects and Bond Oversight Committee

Sen. Elizabeth Tori, Co-Chair

Rep. Mike Denham, Co-Chair

Sen. Tom Buford

Sen. Dan Seum

Sen. Jerry Rhoads

Rep. Robert Damron

Rep. Paul Marcotte

Rep. Jim Wayne

LRC Staff: Nancy Osborne, Shawn Bowen, Pat Ingram, Kristi Culpepper,
and Bart Hardin

**Presented to the
Legislative Research Commission
and the
2007 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 and the Capital Construction and Equipment Purchase Contingency Account; 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, even when the General Assembly is in session. This report covers committee activity between November 1, 2005, and October 31, 2006. During this period, the committee met 12 times. Eleven of the committee's meetings were held in Frankfort in the Capitol Annex. In August 2006, the committee held its meeting at the Centralized Laboratory Facility in Frankfort. During the meeting, the committee received a briefing by Major Wayne Mayfield of the Kentucky State Police (KSP) and toured the KSP Forensic Laboratory afterwards.

The committee reviewed numerous agency reports and requests concerning capital projects and bond issues. A summary of those reviews follows.

Review of Unbudgeted Capital Projects

The committee approved nine unbudgeted capital projects pursuant to KRS 45.760(14), 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. The unbudgeted projects approved by the committee and funded through a mixture of federal grants, restricted funds, and private donations, are as follows:

Department of Military Affairs—Bluegrass Station Building 101 Warehouse replacement-fire damage (\$3,151,089 insurance proceeds and restricted funds. Also approved was a scope increase of \$369,011 federal funds, for a revised scope of \$3,520,100).

Kentucky Higher Education Student Loan Corporation—Two Highlight Color Print Systems (\$424,000 federal funds).

Council on Postsecondary Education—Mobile Education Lab (\$300,000 federal funds).

Kentucky Community and Technical College System—Maysville Community College, Denham Building HVAC Geothermal project (\$482,000 restricted funds); Madisonville Community College, Replace Chiller/Cooling Tower (\$532,500 restricted funds).

Kentucky State University—Land Grant Farm Facility (\$1,578,700 federal funds).

University of Kentucky—Replace and Relocate WUKY Antenna and Transmitter (\$863,040 private, restricted, and federal funds).

University of Louisville—Basketball Practice Facility (\$9,548,000 private funds).

Western Kentucky University—Cherry Hall fire damage (\$865,000 insurance proceeds).

Review of Budgeted Capital Projects

Consolidation of budgeted capital project. The University of Kentucky reported the consolidation of appropriations relating to the Hospital Patient Care Facility (bed tower), a large, multiyear project that has received appropriations from multiple fund sources since the 2002-04 budget. The revised project scope of \$450,000,000 includes the following components: design funds (\$10 million restricted funds); land acquisition (\$5 million restricted funds); heating/cooling plant expansion and equipment (\$33 million restricted funds), facility construction (\$250 million state bonds; \$125 million restricted funds), and furniture/equipment (\$27 million restricted funds).

Requests for scope increases. The committee approved 11 agency requests to increase the scope of authorized capital projects, using private, federal, or restricted (agency) funds. Requests were made to address increased costs of construction materials and to increase the scope of programs. In several cases, requests were made to increase the project scope because of the availability of private or federal funds. Pursuant to KRS 45.760(13), 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.

The scope increases approved by the committee are as follows:

Transportation Cabinet—Capital City Airport Runway/Taxiway/Apron Rehabilitation. In September 2006, private funds of \$1,036,950 from the design engineer's professional liability insurance was approved to correct a design flaw for a revised scope of \$6,648,178. (The project was previously administered by the Department of Military Affairs; an executive order transferred the Capital City Airport to the Transportation Cabinet.)

Department of Military Affairs—Paducah Joint Readiness Center (\$5,427,760 federal funds; revised scope \$16,827,760).

University of Louisville—Expand Cardinal Stadium (\$6,592,000 private funds; revised scope \$16,140,000); Construct Inhalation Chamber (\$293,500 restricted funds; revised scope \$2,410,000).

Northern Kentucky University—Regional Special Events Center (\$4,286,600 increase restricted funds to address increased construction costs of commodities, for a revised scope of \$64,286,000).

Cabinet for Health and Family Services—TWIST rewrite (\$1,016,600 federal funds; revised scope \$4,409,600); Glasgow State Nursing Facility (\$45,000 restricted funds; revised scope \$495,000).

Commerce Cabinet, State Fair Board—Freedom Hall Floor/ Dehumidification project (increase of \$27,617 insurance proceeds, for a revised scope of \$2,055,617); Renovate East Wing to add north lobby pedestrian connector (\$3,405,000 agency bonds from the remaining balance in the 2002-04 budget of the South Wing Expansion/Renovation project; revised scope \$58,405,500).

Education Cabinet—Office of Employment and Training, Kentucky Electronic Workplace for Employment Services (KEWES) Siebel Upgrade the comprehensive unemployment insurance database system (increase of \$172,500 restricted funds; revised scope \$1,322,500).

Kentucky State Police—Upgrade Statewide Communication System (increase of \$200,000 in federal funds; revised scope \$3,096,100).

Review of Allocations From the Statutory Capital Accounts

Capital Construction and Equipment Purchase Contingency Account. The Contingency Account is used primarily to address cost overruns of authorized projects, and allocations are made by the secretary of the Finance and Administration Cabinet. Proposed allocations are to be submitted to the committee for its consideration. During the reporting period, one allocation of \$651,900 was made from the Capital Construction and Equipment Purchase Contingency Account for a cost overrun for the Kentucky State University Young Hall Dormitory project, for a revised scope of \$11,608,125 from various sources.

Emergency Repair, Maintenance, and Replacement Account. The committee reviewed three emergency allocations totaling \$1,278,700. As is the case with the Contingency Account, allocations from the Emergency Account are made by the secretary of the Finance and Administration Cabinet. In January 2005, a \$96,772 allocation was made to address structural repairs at the Cabinet for Health and Family Services' Glasgow State Nursing Facility, for a revised scope of \$450,000; and in October 2006, an allocation of \$129,000 was made for HVAC repairs at the Oak and Acorn Center in Louisville. In March 2006, an allocation of \$88,400 was made for the Office for the Blind's McDowell Center in Louisville roof repair project, for a revised scope of \$699,400. All emergency allocations are to be reported to the committee within 30 days.

General Oversight and Review Topics

Allocations from various program pools authorized by the budget bill were reported to the committee for capital projects costing more than \$400,000 and equipment costing more than \$100,000.

Nonstate projects to be built on state property were reviewed by the committee pursuant to its policy adopted in November 2002. If the projects are to be built, operated, and maintained by the nonstate entity on state-owned land, the agency is to report such development. In August, the Kentucky Community and Technical College System reported construction of the Brighton Recovery Center with private funds at the Gateway Community and Technical College's Mount Zion campus in Boone County. In October, the University of Kentucky reported a lease agreement with the U.S. Department of Agriculture to build a Forage Animal Production Research Center with federal funds on the Lexington campus.

In May and June, the committee received status reports from representatives of the Finance and Administration Cabinet of the Commonwealth's proposed property swap between the City of Pineville (the City) and the state. Under the proposal, the state would convey the Bert T. Combs Building used by the Division of Forestry, and in return, the City would convey to the state a city-owned building to relocate the state agency. The project is being done pursuant to 2001 House Joint Resolution 71, which authorized the property swap and the construction of a hotel by a private-sector developer across the road from the Pine Mountain State Park. A Request for Proposals for the private development was issued jointly by the Finance and Administration Cabinet and the City in March. Negotiations are ongoing with the sole responder, Elledge and Associates.

Official notification from agencies of plans to use alternative construction delivery methods were made to the committee. The traditional construction delivery method is the design-bid-build procurement process whereby the state bids out the design first, which is then the basis for soliciting construction bids from a general contractor. The reports on alternative construction methods are done in compliance with legislation enacted by the 2003 General Assembly.

The use of the design-build method, whereby a single procurement is used to select a team to design and construct a facility, was reported by the Finance and Administration Cabinet in August for the Department of Military Affairs. The primary reason given to construct the 100 percent federally funded \$11.4 million Paducah Joint Readiness Center by this method was to trigger the release of federal funds earlier, at the beginning of the design process rather than later under the construction contract.

Under the construction management-at-risk (CM-at-risk) method, a construction manager rather than a general contractor is used and typically brought in early during the design phase to assist with cost estimates and scheduling. At some point in the process, the construction manager-at-risk takes the risk typically assumed by a general contractor, for delivering the project on time and within budget. The use of the CM-at-risk delivery method was reported by the Finance and Administration Cabinet for the \$64 million Northern

Kentucky Regional Special Events Center in December 2005. In May 2006, the University of Kentucky (UK) reported using CM-at-risk for the \$24 million Student Health Facility. In October, UK reported re-bidding the \$450 million Patient Care Facility (bed tower) project, initially bid in June 2005.

One energy savings performance contract (ESPC) was reviewed by the committee. 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. In May, the cabinet reported an ESPC contract of \$7,516,850 over a 12-year term for the Kentucky Fair and Exposition Center.

The relocation of the offices of the Department of Agriculture, the Finance and Administration Cabinet's Division of Engineering and Contract Administration, and the Executive Branch Ethics Commission to other state-owned space, and the Department of the Treasury to leased space was reported in June. The moves were made to make additional space in the Capitol Annex available to the legislative branch. In compliance with the 2004-06 budget, costs associated with the move were paid from the General Fund Surplus Account.

Review of Bond-funded Loan/Grant Programs

Economic Development Bond Projects. The committee reviewed and approved three grants, representing \$600,000 from the Economic Development Bond (EDB) pool. This bond program 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. The three projects funded during the reporting period and the amount of EDB assistance were Caldwell County Fiscal Court, Hydro-Gear Limited Partnership (\$100,000); Somerset, Pulaski County, UGN Inc. (\$300,000); and Louisville, Jefferson County, NHK Spring Precision of America, Inc. (\$200,000).

The committee also received a report of EDB job creation and job maintenance requirements for projects previously approved. Of the projects currently monitored by the Cabinet for Economic Development, five are in compliance with job creation and maintenance requirements, and six are not and have made or will be required to make annual payments to the county in which they are located for those jobs.

Kentucky Infrastructure Authority Projects. The committee reviewed and approved various Kentucky Infrastructure Authority (KIA) loans and grants to local government entities for public infrastructure projects:

Fund A (Federally Assisted Wastewater Revolving Loan Fund). Seven loans totaling \$18,107,543 were made to the cities of Cynthiana and Paintsville; the

Sanitation Districts of Northern Madison County, Ledbetter Water District, Western Mason, and Boyd County; and the Regional Water Resource Agency. The committee also approved four increases to previously approved loans totaling \$5,033,693 for the cities of Hopkinsville, Loretto, and Morehead, and for Sanitation District No. 1 (Boone, Campbell, and Kenton Counties). The Sanitation District loan totals about \$33.7 million and is the largest Fund A loan in KIA's history. Loan assumptions were approved for the City of Pikeville from the Mountain Water District (two Fund A loans - \$1,238,655), and for Oldham County from the City of Crestwood (\$4,430,248 Fund A loan; \$16,667 Fund C loan).

Fund A1 (Federally Assisted Wastewater Revolving Loan Fund-Planning). A loan of \$2,152,200 to the City of Richmond was approved to plan a new sewer plant.

Fund B (State Drinking Water Fund). Four loans totaling \$3,839,500 were made to the Western Mason Sanitation District and to the cities of Elkton, Guthrie, and Mt. Vernon.

Fund F (Federally Assisted Drinking Water Revolving Loan Fund). Four loans totaling \$16,520,000 were made to the Northern Kentucky Water District (Kenton County), the City of Hardinsburg, the Hopkinsville Water Environment Authority, and to the Columbia/Adair County Water Commission.

Fund C (Governmental Agencies Program Loan Fund). The loan assumption of \$68,333 by the City of Georgetown from the City of Stamping Ground was approved.

2020 Grants (funded from the \$50 million Water Resources Development Bond Program in the 2000-02 budget bill). The committee reviewed grants to the City of Cumberland (\$100,000) and to the Larue County Water District (\$175,000).

Coal/Tobacco Projects. Pursuant to KRS 224A, the committee reviewed various grants authorized by the 2003, 2005, and 2006 General Assemblies prior to KIA entering into assistance agreements with the local entities.

The 2003 General Assembly authorized 103 line-item projects in coal-producing counties totaling \$54,861,998 and 164 line-item projects in tobacco-producing counties totaling \$59,071,343. In this reporting period, the committee reviewed five grants for coal counties totaling \$3,722,711 and three grants from tobacco counties totaling \$1,458,000 from this authorization.

The 2005 General Assembly authorized 193 line-item projects in coal counties totaling \$79,285,960 and 306 line-item projects in tobacco counties totaling \$120,485,220. In this reporting period, the committee reviewed 149 grants from coal counties totaling \$59,674,481 and 271 grants from tobacco counties totaling \$81,132,461 from this authorization.

The 2006 General Assembly authorized 210 line-item projects for coal counties totaling \$100,955,072 and 349 line-item projects for noncoal counties totaling \$151,250,000. To date, the committee has reviewed 12 grants for noncoal counties totaling \$3,013,200 from this authorization.

The committee requested a report on the status of the use of bond proceeds for water and sewer grants administered by KIA based on concerns of arbitrage issues. In June, KIA reported that since the 2000-02 budget, there have been five bond issues associated with KIA grant programs totaling \$365,530,000, with \$230,246,355 in unspent bond proceeds. Not included in this amount is \$250 million of bonds authorized for KIA programs in the 2006-08 budget to be issued after January 1, 2007. A future report will be made to the committee after arbitrage calculations are made at the end of the year.

Review of Bond Issues and Financing Agreements

In addition to the individual bond-funded projects, the committee reviewed the following bond issues and financing agreements:

Kentucky Asset/Liability Commission. Since the establishment of the Kentucky Asset/Liability Commission (ALCo) in 1997, ALCo has issued Tax and Revenue Anticipation Notes (TRANs) in most fiscal years. TRANs are issued to manage the cash flow of the General Fund by using tax-exempt sources of funds to meet the state's payment obligations. In June, ALCo requested and the committee approved up to \$500 million of TRANs. In July, ALCo reported issuance of only \$150 million of TRANs.

Supplements to 2005 General Fund Project Notes. The committee also approved two supplements to the \$750 million ALCo Project Notes, 2005 General Fund Second Series indenture approved in July 2005. The first supplement, approved in June 2006, added three projects authorized in the 2006-08 budget totaling \$116 million to the indenture: Kentucky Horse Park Indoor Arena (\$36,500,000); Department of Military Affairs-Acquire land for the Ford Regional Training Center (\$4,500,000); and the Louisville Arena project (\$75,000,000). The second supplement, approved in September, added another 53 projects from the 2006-08 budget totaling \$1,126,991,000 to the indenture and extended the maximum amount to be outstanding at a given time from \$750 million to \$950 million. Since the 2006-08 budget authorized the issuance of bonds for these projects at different times, having projects listed in the indenture allows for an accounts receivable to be established for each project in order to advance fund projects that are ready to move forward. The project account is subsequently reimbursed out of Project Notes proceeds or with permanent financing. (It was also noted that the \$87 million issued by ALCo as Project Notes in 2005 to finance state payments to tobacco growers in the event that ongoing litigation ruled against them as beneficiaries of the National Tobacco Growers Settlement Trust Fund would now be applied to the KIA grants programs since the court ruled in favor of the beneficiaries.)

Supplements to 2005 Agency Fund Project Notes. Similarly, the committee approved a supplement to the \$250 million 2005 ALCo Agency Fund Second Series indenture initially approved in June 2005. This supplement, approved in June 2006, provided for the inclusion of six projects from the 2006-08 budget totaling \$117,537,000: Kentucky River Authority-KY River Locks and Dams Maintenance and Renovations Pool (\$33,200,000); Murray State University-New Residential College-Richmond Hall (\$13,077,000); Northern Kentucky University-Construct New Student Union (\$17,360,000) and Construct Parking Garage #3 (\$15,400,000); University of Louisville-Construct Center for Predictive Medicine (\$13,000,000); and Western Kentucky University-Renovate Academic/Athletic #2 (\$25,500,000).

Postsecondary Institutions. The committee continued to monitor the reorganization of the University of Kentucky's debt under its new general receipts indenture approved in September 2005, which pledges certain broadly defined revenues for the repayment of the debt, rather than maintaining separate debt programs depending on the purpose of the bonds (e.g., Housing and Dining, Consolidated Educational Buildings, Hospital).

In September 2006, ALCo reported the refunding of UK's outstanding debt issued under previous programs of approximately \$82 million in the Housing and Dining Revenue Bonds and bonds from the State Property and Buildings Commission Project No. 70.

The committee also approved \$15.7 million of Murray State University Housing and Dining System revenue bonds for the construction of the Clark College Residence Hall.

Kentucky Economic Development Finance Authority (KEDFA). In KEDFA issues, the state is a conduit issuer and as such, has no legal or moral obligation for repayment of the debt. As a "conduit," the bonds are issued for the benefit of the developer, but the developer has the full responsibility for repayment of the bonds. Three KEDFA issues were approved: a \$16 million issue for Harrison Memorial Hospital, Inc.; a \$61.75 million issue for Baptist Healthcare System Obligated Group; and a \$40 million issue for King's Daughters Medical Center.

Kentucky Housing Corporation (KHC). The committee approved five new issues of single-family housing revenue bonds totaling \$485 million. Also approved was a conduit multifamily housing revenue bond issue of about \$11 million for Shalom Tower in Louisville. In this conduit issue, KHC served as a conduit for the sale of bonds and has no obligation for the debt.

Kentucky Higher Education Student Loan Corporation (KHESLC). One new issue totaling \$350 million to provide money for student loans was approved.

School district bond issues with School Facilities Construction Commission debt service participation. Seventy issues totaling \$397,215,000 were approved.

School district bond issues with 100 percent locally funded debt service. Thirty-two issues totaling \$155,895 were approved.

The committee received the annual report of bonds outstanding required by KRS 45.810 from the Finance and Administration Cabinet's Office of Financial Management. As of June 30, 2006, the state had approximately \$5.14 billion of appropriation-supported debt outstanding. This amount does not include approximately \$2.66 billion of authorized but unissued debt from the 2004-06 and the 2006-08 enacted budgets. The non-appropriation-supported debt outstanding of other state entities is KHC - \$1.60 billion; KHESLC-\$1.70 billion; and Kentucky Local Correctional Facilities Construction Authority-\$19.82 million.

According to the semiannual report of the Asset/Liability Commission, as of June 30, 2006, Kentucky's appropriation-supported debt issued by the State Property and Buildings Commission continues to be rated Aa3 by Moody's Investors Service, AA- by Fitch Ratings, and A+ by Standard and Poor's (S&P). In February 2006, Standard & Poor's upgraded the Turnpike Authority's rating from A+ to AA citing its strong debt service coverage from constitutionally dedicated revenue sources and limited new debt.

Review of State Leases

During the reporting period, the committee reviewed 31 state agency lease modifications. Nine of these lease modifications increased annual rental payments by a total of \$135,496 to cover the cost of state agency-requested improvements, another 18 increased the amount of space leased, 2 decreased the amount of leased space, and 2 modified lease terms.

The committee approved the award by the Finance and Administration Cabinet of four renewal leases for office space in Franklin County with rent increases. These renewals represent \$153,902 in increased annual rental costs.

The committee reviewed one new lease for office space in Fayette County for the Department of Workers Claims, at an annual cost of \$141,465.

Also reviewed by the committee during the reporting period were four new emergency leases:

Alcoholic Beverage Control Office, Franklin County, obtained emergency replacement space after structural problems at its leased facility required the agency to evacuate. The lease has an annual cost of \$41,132;

Department of Corrections, Division of Probation and Parole, Kenton County, obtained emergency replacement space after sewage discharges at its leased facility caused hazardous and environmentally unsafe working conditions. This lease has an annual cost of \$139,545;

Department of Corrections, Little Sandy Correctional Complex, Elliott County, initiated an emergency lease after an electrical fire in Building #21 damaged the on-site housing for the deputy warden of security. A two-bedroom residence in Sandy Hook was rented at the rate of \$500 per month for the duration of the repair period; and

Department of Parks, Spencer County, obtained emergency housing for the Taylorsville Lake State Park manager due to the poor condition of the on-site, park-owned residence. A two-bedroom apartment in Taylorsville was rented at a cost of \$625 monthly.

The committee approved for the University of Kentucky a new federally funded lease for the UK Center for Computational Sciences at a cost of \$729,140 for a 19-month lease with e-Cavern, Inc.; a lease renewal report for the UK Department of Anthropology at a cost of \$113,400 annually; and a lease modification report for the UK Behavioral Science and Kentucky Injury Prevention and Research Center at a cost of \$116,994 annually. The committee also reviewed an emergency lease modification report for UK Hospital Finance that had an annual cost of \$794,182.

A new lease of 458 parking spaces for the University of Louisville was approved at an annual cost of \$164,880. Due to the construction of a new research building, replacement parking was needed for students of the University's Health Science Center.

In October, the committee approved the modification of the 2003 lease-purchase agreement between the Kentucky Community and Technical College System (KCTCS) and the City of Versailles (the City) relating to the KCTCS System Office in Versailles. KCTCS reported plans to renovate an additional 15,000 square feet of space to accommodate programs transferred by the 2006 General Assembly and grant-related programs. The annual cost of the lease is \$909,108, including escrow for routine maintenance and capital renewal. (Approximately 86,700 square feet of the total 130,000-square-foot facility was renovated in 2003 when KCTCS occupied the building at an annual lease cost of \$715,008, including escrow. The City issued bonds to obtain financing for the improvements.

A new lease for the Eastern Kentucky University Continuing Education Program in Manchester was approved at an annual cost of \$123,804. The space presently houses the university's Continuing Education and Outreach program in Clay County and is needed until the new facility is completed in approximately two years.

Review of Court Projects

The committee reviewed and approved one request by the Administrative Office of the Courts (AOC) to increase the use allowance for the Bullitt County Judicial Center authorized by the 2000 General Assembly. The use allowance is a payment AOC makes to a county for court space and is structured to cover a county's debt service payments related to the financing of a court project. The Bullitt County Judicial Center is the only court project authorized in the 2000 Session that is not completed. The project had encountered several

obstacles from the beginning of the project. In August 2002, the steel contractor defaulted after completing only 5 percent of the work. In April 2005, the entire project team defaulted when the project was about 45 percent complete. A new architect and construction manager were hired, but construction did not begin again until fall 2005. The committee approved increasing the scope of the annual use allowance for the facility from \$1,146,900 to \$1,318,935 (15 percent). The committee asked to be briefed in the future about this project.

**Report of the 2006
Education Assessment and Accountability
Review Subcommittee**

Sen. Jack Westwood, Co-Chair
Rep. Harry Moberly, Co-Chair

Sen. Dan Kelly
Sen. Ken Winters
Sen. Ed Worley

Rep. Jon Draud
Rep. Mary Lou Marzian
Rep. Frank Rasche

LRC Staff: Sandra Deaton and Lisa Moore

**Presented to the
Legislative Research Commission
and the
2007 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 during the 2006 Interim.

During the February meeting, the subcommittee continued its review of the Office of Education Accountability (OEA) report on the study of the School Facilities Construction Commission required by the 2005 General Assembly. OEA was directed to conduct a review of the commission's ability to provide local school districts with necessary debt service assistance to maintain a facility program that will be conducive to a positive learning environment. The commissioner of education, the executive director of the School Facilities Construction Commission, and a local school district superintendent response to the report.

The February meeting also included a status report from the commissioner of education on the development of a new contract for the Commonwealth Accountability Testing System (CATS). The contract was awarded in the spring and will incorporate several changes including annual testing of reading and math in grades 3 through 8.

During the June and August meetings, OEA staff presented a review of school district efficiency and effectiveness indicators required by the 2005 House Bill 267. The report discussed national and state efforts to study school and school district efficiency. Definitions of "efficiency and effectiveness," and "instructional and non-instruction spending" were presented, and several efforts to rank states on measures of performance and efficiency were reviewed. Education finance data collected and disseminated by the National Center on Education Statistics and the U.S. Bureau of the Census were examined to provide a picture of the level of Kentucky's K-12 education expenditures relative to that of other states.

The education data available in Kentucky were described, and an overview of how Kentucky spends dollars was provided. There was a comprehensive review of the data integrity issues around Kentucky's databases. The report provides an inventory of indicators that can be used to measure efficiency and effectiveness and describes a number of models that researchers use and that incorporate these indicators to measure education efficiency and effectiveness.

In August, the commissioner of education discussed current issues related to the accountability system. He outlined several questions and recommendations for changing the CATS accountability index. Questions included whether the weight of reading in the index should be increased; whether the accountability calculations would include a measure of

growth using grade-to-grade assessments in reading and mathematics; should the focus on all content areas be maintained; and how the ACT should be utilized.

The commissioner of education provided a report on the statewide test results for No Child Left Behind (NCLB), CATS, and ACT at the October meeting. The commissioner reported that under the 2006 NCLB results, 766 schools met 100 percent of the NCLB Annual Yearly Progress (AYP) goals, which is 65.8 percent of all schools in Kentucky. He noted that data was reported for all 176 school districts and 1,164 schools. Three hundred ninety-eight schools, or 34.2 percent, did not make AYP, but 241 of these schools made 80 percent or more of their goals, and 129 of these schools met at least 90 percent or more of their goals. Overall, 1,007 schools (86.5 percent) met 80 percent or more of their goals.

The commissioner discussed Kentucky's 2006 CATS results. He said slightly more than half of Kentucky's public schools met or exceeded their goals for the 2005-2006 accountability cycle of the CATS, and fewer than 45 are in the assistance categories. He said 591 schools met their goals; 533 schools are progressing; 14 schools are in Assistance Level 1; 14 schools are in Assistance Level 2; and 13 schools are in Assistance Level 3.

The commissioner reported that the ACT composite scores for Kentucky's college-bound high school seniors rose slightly in 2006. The 2006 composite was 20.6, a gain of 0.2 from 2005, when the composite was 20.4. Nationally, the 2006 composite scores was 21.1, a gain of 0.2 from 2005.

The subcommittee reviewed amendments to administrative regulation 703 KAR 5:020, the formula for determining school accountability; and 703 KAR 5:010, writing portfolio procedures.

**Report of the 2006
Government Contract Review Committee**

**Sen. Katie Stine, Co-Chair
Rep. Brent Yonts, Co-Chair**

Sen. Carol Gibson
Sen. Ernesto Scorsone
Sen. Elizabeth Tori

Rep. Jesse Crenshaw
Rep. Kathy Stein
Rep. Brad Montell

LRC Staff: Kim M. Eisner and Jennifer A. Wilson

**Presented to the
Legislative Research Commission
and the
2007 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.

Memoranda of agreement review exemptions include 1) agreements between the Transportation Cabinet and political subdivisions of the Commonwealth for road and road-related projects; 2) agreements between the Auditor of Public Accounts and other government agencies for auditing services; 3) agreements between a state agency as required by federal or state law; 4) 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; 5) agreements involving child support collections and enforcement; 6) agreements with public utilities, providers of certain direct Medicaid health care to individuals, and transit authorities; 7) nonfinancial agreements; 8) any obligation or payment for reimbursement of the cost of corrective action made pursuant to the Petroleum Storage Tank Environmental Assurance Fund; 9) exchanges of confidential personal information between agencies; 10) agreements between state agencies and rural concentrated employment programs; or 11) any other agreement that the committee deems inappropriate for consideration.

Personal service contract review exemptions include 1) agreements between the Department of Parks and a performing artist or artists for less than \$5,000 per fiscal year, per artist or artists; 2) agreements with public utilities, foster care parents, providers of certain direct Medicaid health care to individuals, individuals performing homemaker services, and transit authorities; 3) agreements between state universities or colleges and employers of students in the Commonwealth Work Study Program; 4) agreements between state agencies and rural concentrated employment programs; 5) agreements between the State Fair Board and judges, officials, or entertainers contracted for events promoted by the State Fair Board; or 6) 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 the 2005- 2006 fiscal year beginning July 1, 2005, and ending June 30, 2006, the committee reviewed 1,051 personal service contracts and 408 amendments to personal service contracts. The committee also reviewed 381 personal service contracts for \$10,000 and under, which are submitted to the committee for informational purposes only.

During the 2005-2006 fiscal year, the committee reviewed 1,410 memoranda of agreement and 729 memoranda of agreement amendments. The committee also reviewed 1,415 memoranda of agreement for \$50,000 and under, which are submitted to the committee for informational purposes only.

During the 2005-2006 fiscal year the Committee reviewed 1,840 personal service contract items and 3,554 memoranda of agreement items, for a total of 5,394 items.

Since the start of the 2006-2007 through November 17, 2006, the committee has reviewed 911 personal service contracts and 83 amendments to personal service contracts. The committee has also reviewed 176 personal service contracts for \$10,000 and under, which are submitted to the committee for informational purposes only.

Since the start of the 2006-2007 through November 17, 2006, the committee has reviewed 560 memoranda of agreement and 162 memoranda of agreement amendments. The committee also reviewed 573 memoranda of agreement for \$50,000 and under, which are submitted to the committee for informational purposes only.

Since the start of the 2006-2007 through November 17, 2006, the committee has reviewed 1,170 personal service contract items and 1,295 memoranda of agreement items, for a total of 2,465 items.

Note: Beginning July 1, 2006, the Finance and Administration Cabinet implemented the e-mars procurement system, and during the months of July, August, and September, the Government Contract Review database did not capture all of the memoranda of agreement amendments.

**Report of the 2006
Medicaid Oversight and Advisory Committee**

**Sen. Richard “Dick” Roeding, Co-Chair
Rep. Derrick Graham, Co-Chair**

Sen. Walter Blevins
Sen. Tom Buford
Sen. Julie Denton
Sen. Dan Seum

Rep. James Bruce
Rep. Joni Jenkins
Rep. Jimmie Lee
Rep. Steve Nunn

LRC Staff: Barbara Baker, Miriam Fordham, and Cindy Smith

**Presented to the
Legislative Research Commission
and the
2007 Kentucky General Assembly**

Medicaid Oversight and Advisory Committee

Jurisdiction: Oversight of the implementation of Medicaid within the Commonwealth including access to services, utilization of services, quality of services, and cost containment.

Committee Activity

During the 2006 Interim, the Medicaid Oversight and Advisory Committee held four meetings. The committee heard testimony regarding the federal Deficit Reduction Act of 2005, KyHealth Choices, long-term living initiatives, Passport Health Plan, Kentucky All Schedule Prescription Electronic Reporting, and other Medicaid issues. The following represents a summary of testimony heard by the committee.

Major Issues Considered by the Committee

Federal Deficit Reduction Act of 2005

The committee heard presentations on the federal Deficit Reduction Act of 2005 (DRA) and its implications for the Medicaid program by the director of the Health and Human Services Task Force of the American Legislative Exchange Council and by the group director of the Forum for State Health Policy Leadership in the National Conference of State Legislatures. DRA gives states new opportunities to provide long-term care in community settings. Since every state's Medicaid program is different, the extent of new flexibility afforded by DRA will be different in each state. Many states are working on reform that is separate from DRA changes. The state Medicaid initiatives getting attention are 1) covering the uninsured; 2) Medicaid connections with private insurance; 3) benefit package changes and cost-sharing initiatives; and 4) long-term care. In regard to the benefit package and cost-sharing flexibility within Medicaid, the elements of the recently approved proposal drawing interest include 1) insurance premium defined contribution; 2) tailored benefit packages; 3) enhanced benefits accounts; and 4) private insurance opt out. The insurance premium defined contribution is a risk-adjusted monthly amount used to provide choice among different insurance packages. The tailored benefit packages in Kentucky include a variation in benefit packages across groups or geographic areas. There are three packages in Idaho and four in Kentucky by population group. All the benefit package changes approved thus far were part of state reform plans developed prior to the DRA. West Virginia Mountain Health Choices provides incentives to encourage members to take responsibility for their health. Financial credits are awarded for certain behaviors. These credits can be used for specified noncovered services. The group director of the Forum for State Health Policy Leadership reported that West Virginia has Mountain Health Choices that provides an enhanced benefit plan for members who agree to perform certain healthy behaviors. Credits for these behaviors may be used to purchase enhanced benefits. A more limited basic plan is available for those who do not agree to perform the selected healthy behaviors. Another example is Florida, where the goal is to reinvent Medicaid to create a competitive health care market driven by educated consumers who are empowered to make purchasing decisions for themselves. Eligible beneficiaries choose one of a variety of plans offering different benefits packages. States pay

a premium amount adjusted for age, gender, and health status. Plans can add benefits or can limit some benefits, and the value of the benefits must meet actuarial equivalency tests. Beneficiaries can choose to take premiums and purchase private coverage called, “opt out.”

The group director of the Forum for State Health Policy Leadership provided information on the long-term care state plan option. Certain services may be provided without a waiver. States have the flexibility to not offer services statewide and limit the number of persons served. The Self-Determined Personal Assistance Services State Plan Option may provide for self-direction without a waiver. The DRA also provided an opportunity for states to apply for the Money Follows the Person Demonstration grants. The first awards will be made this year. There is a higher federal match to states for services provided to individuals transitioned to the community setting from an institution. States have service obligations at the regular match after the end of the 12 months post transition.

The director of the Health and Human Services Task Force of the American Legislative Exchange Council reported that the DRA extended the period of time that Medicaid looks back at asset transfers from three to five years. Other provisions of the DRA provide an opportunity for states to use the Medicaid and State Children’s Health Insurance Program funds to pay for employer-sponsored insurance and provides the opportunity for ten states to implement a five-year Health Opportunity Account demonstration.

KyHealth Choices

The commissioner of the Department for Medicaid Services within the Cabinet for Health and Family Services provided an update on KyHealth Choices. The commissioner described the four categories of KyHealth Choices: 1) Global Choices with 235,000 members; 2) Family Choices with 263,000 members consisting mainly of children; 3) Optimum Choices with 3,500 members consisting of individuals with mental retardation and developmental disabilities in need of intermediate care facility or mental retardation level of care; and 4) Comprehensive Choices with 27,900 members consisting of mainly the elderly and/or disabled in need of nursing facility level of care. KyHealth Choices was implemented on July 1, 2006. This program included increased cost sharing and tailored benefit packages for each category.

The Cabinet for Health and Family Services submitted a 1115 waiver to the Center for Medicare and Medicaid Services (CMS) for approval to implement as a demonstration. However, the passage of the Deficit Reduction Act of 2005 provided the flexibility needed to implement the program under a State Health Plan amendment instead of requiring a waiver. The commissioner reported that a roll out of Optimum Choices has not occurred yet, due to the need of the approval of the 1115 waiver to move individuals through the continuum of care. The cabinet continues to work with CMS for approval.

Legislators expressed concern regarding the effect of the increased cost sharing on recipients’ access to services, especially the 5 percent co-payment on tier 3 drugs. Concern was also expressed that a therapeutic equivalent was not available for some of the drugs identified as tier 3. In response, the commissioner moved some of the drugs off tier 3 and

implemented a cap of \$20 on drugs listed in tier 3. Legislators requested that the cabinet reconsider the \$20 cost sharing for tier 3 drugs. The packages also include limitations on services, which the commissioner described as “soft limits” that can be overridden through the prior authorization process.

Medicare Part D

The director of Pharmacy Operations of the Department for Medicaid Services outlined the problem areas associated with the implementation of Medicare Part D. He noted that many Part D plans did not have up-to-date information from the CMS; therefore, some members were not recognized as enrolled. He also noted that many plans were applying utilization tools that were not approved by CMS. At a later meeting, it was reported that the federal CMS reimbursed states for expenditures for prescriptions and associated administrative costs incurred as a result of providing prescriptions to dual eligibles during the January 2006 start-up period.

Passport Health Plan

The chairman of the Passport Health Plan Partnership Council provided an overview of the successes of the plan, which has been in existence for eight years. The plan has grown from 95,000 members in 1997 to 135,000. He reported that the program controlled the cost of Medicaid services in the region, resulting in \$191 million in savings. Passport Advantage, a prescription drug plan for 11,000 dual eligibles has been successful. The percentage of increase in Passport’s Medicaid budget was 3 to 4 percent per year for the last few years. There is extensive physician/clinician involvement in developing, implementing, and managing the plan. There is a collaboration with community agencies and health departments and an extensive provider network and enhanced reimbursement. The program’s Health Plan Employer Data and Information Set was also presented.. Passport Health Plan exceeds the national average in childhood immunizations, diabetes care, and Early Periodic Screen Diagnostic Testing compliance.

Medicaid Updates and Issues

The commissioner of the Department for Medicaid Services provided an update at each meeting. The department transitioned to Electronic Data Systems on November 28, 2005, and providers were contacted about the changes.

Four-prescription Limit. The commissioner of the Department for Medicaid Services reported that the department implemented a four-prescription limit per month policy effective March 1, 2006. Prescriptions are limited to three brand name drugs per month. This policy applies to all Medicaid recipients except children and nursing facility residents who are not eligible for Medicare Part D. A pharmacist may dispense additional medications using code “07” at the point of sale if the prescription is being dispensed to treat certain conditions identified by the cabinet. Certain classifications of drugs are exempt.

Brown Bagging of Drugs. Members requested that the commissioner of the Department for Medicaid Services update the committee on intravenous medications purchased at a pharmacy and transported to the physician's office for administration. The commissioner reported that the cabinet does not have a policy that requires this practice. An ordinary regulation will be filed that will make sure injectible drugs are available both in the physician's office and in the pharmacy. The commissioner reported that he plans to consult with the Kentucky Medical Association regarding pricing and procedures in order for the cabinet to get the rebate for prescriptions purchased in the physician's office.

Clinical appropriateness. The commissioner of the Department for Medicaid Services provided an explanation of "clinical appropriateness" and "medical necessity." Electronic Data Systems, a contractor with Medicaid, subcontracted with SHPS, Inc. to provide prior authorization for medical procedures based on InterQual, a software tool based on national clinical guidelines. For procedures for which InterQual does not have criteria upon which to determine clinical appropriateness, the department plans to develop the criteria that will be loaded into InterQual blank templates. The commissioner reported that administrative regulations would be amended to combine the terms "medically necessary" and "clinically appropriateness."

Kentucky All Schedule Prescription Electronic Reporting System

The director of the Division of Fraud, Waste and Abuse/Identification and Prevention and the branch manager of the Drug Enforcement and Professional Practices in the Office of the Inspector General, both in the Cabinet for Health and Family Services, reported that in 2004, the responsibility for the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system was transferred to the Office of the Inspector General from the Department of Public Health. After health care providers and law enforcement continued to demand real-time access to the KASPER data, the legislature appropriated \$1.4 million to develop a web-based version of the system, enhanced KASPER (eKASPER), which was launched in March 2005. The eKASPER reports are available within 15-20 seconds, resulting in a significant increase in usage by health care professionals. The eKASPER program is considered the leader among prescription monitoring programs (PMPs) in the United States. PMPs help prevent the abuse and diversion of controlled pharmaceutical substances.

KASPER report recipients include law enforcement officers, Medicaid, grand juries, practitioners, the Kentucky Board of Medical Licensure, the Kentucky Board of Nursing, judges, and probation or parole officers. Currently, there are more than 2,700 established KASPER user accounts, with 60 percent being prescriber accounts. There is an average 6 percent growth per month in the number of accounts. In 2005, 92 percent of KASPER report requests were made by physicians. Current enhancements to the system include providing accounts for authorized judges and advanced registered nurse practitioners, making regulatory changes to reduce the reporting time by the dispenser, working with the federal government to support efforts to develop a standard for sharing PMP data among states, publishing trend reports, and utilizing Hal Rogers Grant funding to continue educational outreach to health care and law enforcement professionals. Planned enhancements include issuing a Request for Proposals to contract with a vendor to collect and report most

controlled substance prescription data within 24 hours of it being dispensed, using the Hal Rogers Grant funding to participate in a cabinet ePrescribing pilot program, continuing to develop KASPER trend data reporting and analysis capabilities, sponsoring a prescription drug prevention program targeted toward students in grades 6-12, and completing a business process improvement project for the Drug Enforcement and Professional Practices Branch.

Prescription data reported by KASPER is 30-45 days old. There is a plan to shorten that time to three to eight days and to eventually have the reporting in real time. Authorized users within the Medicaid program's enforcement branch obtain and quarterly Surveillance Utilization Review Subsystem reports identifying the top 200 potential pharmacy benefit abusers; identify and review KASPER reports based upon referrals from other sources; and consult with special investigation or drug enforcement personnel to determine if potential abuse or diversion problems exist and whether administrative and/or law enforcement actions are warranted. Currently, a project is underway to develop an automated interface between the Medicaid and KASPER systems. Medicaid data will be combined with KASPER data to see where the abuse may be occurring.

Long Term Living Initiative

The commissioner of the Department for Medicaid Services described the Long Term Living Initiative plan under development. Under this initiative, individuals could move from an institutional to a residential setting. The initiative creates a single point of entry, technical interface, and coordination between agencies to build a continuum of care. He reported that Kentucky plans to use a combination model to provide services through the DRA and a 1915C waiver. A dialog is continuing with CMS on long-term living initiatives. A workgroup is concentrating on recommendations on a rate structure and service models. It was noted that the DRA limits home- and community-based services to individuals who have incomes below 150 percent of the federal poverty guidelines. Kentucky currently has 128 individuals receiving home- and community-based services who would be ineligible under the DRA. It is anticipated that these individuals would receive services under a 1915C waiver.

Report of the 2006 Program Review and Investigations Committee

Sen. Ernie Harris, Co-Chair
Rep. Tommy Thompson, Co-Chair

Sen. Charlie Borders
Sen. Brett Guthrie
Sen. Vernie McGaha
Sen. R.J. Palmer
Sen. Joey Pendleton
Sen. Dan Seum
Sen. Katie Stine

Rep. Adrian Arnold
Rep. Sheldon Baugh
Rep. Dwight Butler
Rep. Charlie Hoffman
Rep. Rick Nelson
Rep. Ruth Ann Palumbo
Rep. Arnold Simpson

LRC Staff: Greg Hager, Rick Graycarek, Jim Guinn, Christopher Hall,
Margaret Hurst, Van Knowles, Perry Papka, Rkia Rhrib, Cindy Upton,
Tanlee Wasson, and Jennifer Beeler

**Presented to the
Legislative Research Commission
and the
2007 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 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

In 2006, the Legislative Program Review and Investigations Committee held six meetings through November.

At the May meeting, members of the committee elected House and Senate co-chairs. Staff presented the report *Information Systems Can Help Prevent, but Not Eliminate, Health Care Fraud and Abuse*. The Cabinet for Health and Family Services' inspector general and director from the Division for Fraud, Waste and Abuse/Identification and Prevention and the Office of the Attorney General's director for the Medicaid Fraud and Abuse Control Division responded.

At the June meeting, staff presented a summary of the report on information systems presented initially at the May meeting. After discussion, the committee voted to approve the report and its recommendations.

Also at the June meeting, staff presented the report *School Size and Student Outcomes in Kentucky's Public Schools*. A retired superintendent of the Eminence Independent School District, the Henderson County School District's director of Secondary Schools, Henderson County High School's coordinating principal, and a deputy commissioner from the Kentucky Department of Education responded. After discussion, the committee voted to approve the report.

At the August meeting, staff presented an update of the report *Planning for Water Projects in Kentucky: The Implementation of Senate Bill 409*, which the committee had adopted at its October 2005 meeting. The director and executive assistant for the Kentucky Infrastructure Authority updated the committee on responses to the report's recommendations. The committee discussed the recommendations and responses.

Staff presented an update of the report *Improved Coordination and Information Could Reduce the Backlog of Unserved Warrants*, which the committee had adopted at its July 2005 meeting. The director of the Administrative Office of the Courts and the E-Warrants project director updated the committee on responses to the report's recommendations. The committee discussed the recommendations and responses.

Staff presented a summary of the report *Offshore Outsourcing of Kentucky State Government Services: Direct Contracting Is Limited but the Amount of Subcontracting Is Unknown*, which the committee had adopted at its May 2005 meeting.

Also at the August meeting, the committee voted to initiate two studies: siting of electric transmission lines and trading of pollution emission credits.

At the September meeting, staff presented the report *Planning for School Facilities Can Be Improved To Better Serve the Needs of All Students*. The Kentucky Department of Education's associate commissioner for District Support Services, the director of the School Facilities Construction Commission, a representative for the Kentucky Disabilities Coalition, and the Kentucky ADA coordinator responded.

At the October meeting, staff presented a summary of the report on school facilities presented initially at the September meeting. The Kentucky Department of Education's director of Facilities Management responded to the report. After discussion, the committee adopted the report and its recommendations.

Staff presented the report *Highly Skilled Educator Program*. The Kentucky Department of Education's deputy commissioner of Learning and Results Services and branch manager of the Highly Skilled Educator Program responded to the report. After discussion, the motion to approve the report and its recommendations was not adopted.

At the November meeting, staff presented the report *Kentucky's Foster Care System Is Improving, but Challenges Remain*. The Cabinet for Health and Family Services' commissioner of the Department for Community Based Services and the general manager of the Administrative Office of the Courts' Department of Juvenile Services responded. After discussion, the committee voted to approve the report and its recommendations. The committee also voted to approve the report *Highly Skilled Educator Program*, which was presented at the committee's October meeting.

For the December meeting, staff will present a report on community mental health centers. Representatives from the Auditor of Public Accounts will brief the committee on the performance audit *Kentucky's Dropout Rate*.

**Report of the 2006
Tobacco Settlement Agreement Fund
Oversight Committee**

Sen. Vernie McGaha, Co-Chair

Rep. Carolyn Belcher, Co-Chair

Sen. Charlie Borders
Sen. David E. Boswell
Sen. Dan Kelly
Sen. Joey Pendleton
Sen. Richie Sanders, Jr.

Rep. Adrian K. Arnold
Rep. James Comer, Jr.
Rep. Charlie Hoffman
Rep. Thomas McKee
Rep. Tommy Turner

LRC Staff: Tanya Monsanto, Lowell Atchley, and Kelly Blevins

**Presented to the
Legislative Research Commission
and the
2007 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 11 times during the 2006 calendar year. Each month, the committee received regular activity reports from the Governor's Office of Agricultural Policy (GOAP) and from the Agricultural Development Board's (ADB) regarding funding decisions on project applications. Also, the committee continued to serve as a forum for public input and performed an oversight function regarding funding decisions made by the ADB.

The committee dealt with a variety of issues under the purview of the legislative panel, including continuing Master Settlement Agreement (MSA) funding and budgetary matters, and the continuing struggles of agricultural production cooperatives.

In January, the committee discussed MSA funding and heard a presentation by a Legislative Research Commission staff economist on court issues affecting the Master Settlement Agreement that could ultimately affect funding. The economist told the committee that the Consensus Forecasting Group had projected a decline in MSA funds in the coming years.

In May, following the 2006 legislative session, the economist, along with GOAP officials briefed the committee on the appropriation of tobacco settlement moneys in the 2006-2008 budget. GOAP officials reviewed the amounts that the ADB would have in the Agricultural Development Fund. In October, the committee heard a report on the Phase II amnesty program that provided tobacco payments to producers who did not receive payments under the previous Phase II final payout.

As it did in the year before, the committee discussed the continuing problems of agricultural production cooperatives, which had received tobacco settlement money. In February, GOAP officials briefed the committee on the status of the West Kentucky Growers Cooperative, which was dissolving and selling its assets. Officials also discussed a just-completed study regarding vegetable cooperative production and processing business in Kentucky. The West Kentucky co-op was discussed again in March, along with two other

cooperatives, Kentucky West Nursery Cooperative and Green River Product Marketing Cooperative. GOAP officials kept the committee informed about the status of the cooperatives in other meetings as well.

The committee also occasionally discussed other issues, including application of a standard in granting or loaning settlement funds based on a connection to tobacco production, diversifying from tobacco to other types of agricultural production, and monitoring and oversight of the tobacco funds.

Review of Projects

At each committee meeting, the panel received a report on the projects that the Agricultural Development Board acted on in its earlier meeting. In so doing, the committee performed its responsibility of a) monitoring the expenditure of funds received under the Tobacco Master Settlement Agreement, b) receiving reports of the Agricultural Development Board through the Governor's Office of Agricultural Policy, and c) overseeing the pattern of Master Settlement Agreement fund usage in accordance with the requirements of the agreement.

GOAP representatives reviewed projects affecting multiple counties and regions, and the state as a whole. They also presented a monthly listing of county model programs. In addition to routine projects, the committee also heard about those projects receiving funding under two new competitive awards programs: the agritourism competitive awards program and the farmers market competitive awards program.

Several projects related to the state's growing livestock industry were also reviewed. The committee heard about a number of projects reflecting another growth area—wine production. The committee also learned that more and more counties are adopting a “menu” approach to awarding funds at the local level. That approach allows applicants to choose from multiple funding categories established under a menu, rather than just one funding category.

Finally, the committee continued to function as a forum for public input and performed an oversight function regarding funding decisions the ADB made. In July, committee members reviewed a letter and other supporting documents from the Livingston County Conservation District. The ADB had earlier denied funding to assist the district in hosting an agricultural safety day for 4th graders. After discussion, the committee took no formal action. In a subsequent meeting, the committee learned that the district's board had discontinued its appeal.

During the same meeting, the committee heard from the director of the Agriculture Communications Foundation who wanted to use the tobacco settlement funds to produce a series of agriculture and farm-related television programs. The committee took no formal action on the matter.

In May and then again in October, the committee discussed the status of PIC North America, a company that acquired a forgivable loan from the Agricultural Development Board. The company announced in December 2005 that it was moving from Simpson County to Tennessee.

During the September meeting, the committee heard from Community Farm Alliance members, who were critical of certain Kentucky Agricultural Finance Corporation lending practices, particularly loaning money for tobacco barns and the like. The corporation has utilized tobacco settlement moneys in its loan programs.

Reports Received

Along with the monthly project reports from representatives of the Governor's Office of Agricultural Policy, 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 executive director of the Kentucky Agency for Substance Abuse Policy (KY-ASAP), a division of the Office of Drug Control Policy, reported to the committee in April. During the discussion, the agency head reviewed the status of the KY-ASAP board and board meetings, presented a financial overview; and discussed local board activities, staffing, and town hall meetings. The agency reported to the committee again in December.

In July, the committee received a report from the executive director of the Early Childhood Development Fund and the many programs affiliated with that fund. The Early Childhood Development Fund received about 25 percent of the Phase I Master Settlement Agreement distribution. The presentation also included discussion of two studies conducted on the effectiveness of Early Childhood Development programs.

Directors of programs associated with the Kentucky Health Care Improvement Fund reported to the committee in August. Doctors affiliated with the University of Louisville's Brown Cancer Center and the University of Kentucky's Markey Cancer Center reported on cancer research projects. The executive director of Kentucky Access updated the committee on the status of the high-risk insurance pool. The official also discussed the work of the Health Care Improvement Authority. In addition, the committee heard from the director of the Kentucky Tobacco Prevention and Cessation Program.

The status of the many projects undertaken in soil erosion and water quality cost share and soil stewardship programs were included in a September report from the director of the state Division of Conservation.

During September, the committee received a report on programmatic and financial activities of the Kentucky Agricultural Finance Corporation.

Representatives of the Kentucky Infrastructure Authority reported in October on water and wastewater projects administered by the authority. KIA officials concentrated in particular on projects undertaken with tobacco settlement funds.

The panel received written information during the October meeting from the Purchase of Agricultural Conservation Easement and the Lexington-Fayette County Purchase of Development Rights programs, both of which benefited from a bond issue backed by tobacco settlement funds.

In addition to hearing reports from agencies receiving annual tobacco settlement funding, the committee heard how producers are using tobacco settlement funds to add value to their farm products. In November, the committee heard a presentation by Department of Agriculture officials and representatives with Allied Food Marketers, who discussed their ongoing efforts to help producers market products under the “Kentucky Proud” program.

