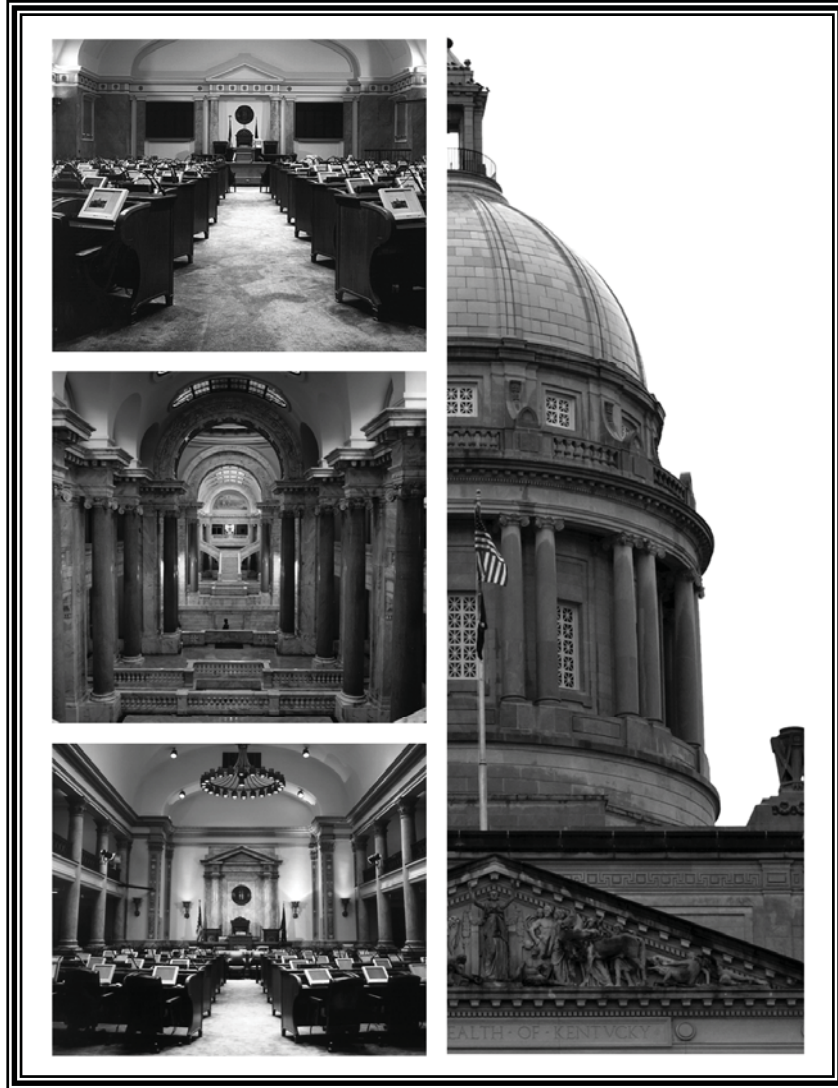


Final Reports of the Interim Joint, Special, and Statutory Committees 2007



Informational Bulletin No. 225

**Legislative Research Commission
Frankfort, Kentucky
December 2007**

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

2007

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Informational Bulletin No. 225

Legislative Research Commission
Frankfort, Kentucky
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December 2007

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 2007 Interim, all 14 interim joint committees held meetings. Two special committees were authorized by LRC. All eight statutory committees met during the 2007 Interim.

LRC provides this informational booklet as a summary of the activity of the interim joint, special, and statutory committees since adjournment of the 2007 General Assembly. The reports were prepared separately by the committee staff.

Robert Sherman
Director

Legislative Research Commission
Frankfort, Kentucky
December 2007

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**Report of the 2007
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	Rep. W. Keith Hall
Sen. Ernie Harris	Rep. Richard Henderson
Sen. Dan Kelly	Rep. Jimmy Higdon
Sen. Robert J. Leeper	Rep. Charlie Hoffman
Sen. Vernie McGaha	Rep. Reginald K. Meeks
Sen. Joey Pendleton	Rep. Brad Montell
Sen. J. Dorsey Ridley	Rep. Tim Moore
Sen. Richie Sanders, Jr.	Rep. Fred Nesler
Sen. Ernesto Scorsone	Rep. David Osborne
Sen. Damon Thayer	Rep. Don R. Pasley
Rep. Royce W. Adams	Rep. Tanya Pullin
Rep. John A. Arnold, Jr.	Rep. Marie L. Rader
Rep. Johnny Bell	Rep. Tom Riner
Rep. Dwight D. Butler	Rep. Steven Rudy
Rep. Mike Cherry	Rep. Dottie Sims
Rep. Hubert Collins	Rep. Brandon D. Smith
Rep. James R. Comer, Jr.	Rep. Brandon Spencer
Rep. Howard D. Cornett	Rep. Jim Stewart III
Rep. Tim Couch	Rep. Tommy Turner
Rep. W. Milward Dedman, Jr.	Rep. Ken Upchurch
Rep. Mike Denham	Rep. Robin L. Webb
Rep. C.B. Embry, Jr.	Rep. Susan Westrom
Rep. Jeff Greer	

LRC Staff: Tanya Monsanto, Biff Baker, Hank Marks, Lowell Atchley, and
Lindsey Murphy

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
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	Rep. Jimmy Higdon
Sen. Robert J. Leeper	Rep. Tom McKee, ex officio
Sen. Richie Sanders, Jr.	Rep. Fred Nesler
Rep. John A. Arnold, Jr.	Rep. Marie L. Rader
Rep. Dwight D. Butler	Rep. Rick W. Rand
Rep. Mike Cherry	Rep. Steven Rudy
Rep. James Comer, Jr.	Rep. Dottie Sims
Rep. C.B. Embry, Jr.	Rep. Tommy Turner
Rep. James Gooch, Jr., ex officio	

Subcommittee on Horse Farming

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

Sen. Tom Jensen, ex officio	Rep. Tom McKee, ex officio
Sen. Joey Pendleton	Rep. Brad Montell
Rep. Royce W. Adams	Rep. David Osborne
Rep. W. Milward Dedman, Jr.	Rep. Don R. Pasley
Rep. James Gooch, Jr., ex officio	Rep. Tom Riner
Rep. Richard Henderson	Rep. Ken Upchurch
Rep. Charlie Hoffman	

Subcommittee on Natural Resources

Sen. Ernie Harris, Co-Chair
Rep. W. Keith Hall, Co-Chair

Sen. David E. Boswell	Rep. Tom McKee, ex officio
Sen. Tom Jensen, ex officio	Rep. Reginald K. Meeks
Sen. Dan Kelly	Rep. Tim Moore
Sen. J. Dorsey Ridley	Rep. Tanya Pullin
Sen. Ernesto Scorsone	Rep. Brandon D. Smith
Rep. Hubert Collins	Rep. Brandon Spencer
Rep. Tim Couch	Rep. Jim Stewart III
Rep. James Gooch, Jr., ex officio	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; and 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 2007 Interim. Three subcommittees were reauthorized from the 2006 Interim: Natural Resources Subcommittee, Horse Farming Subcommittee, and 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 such as 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 for 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 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 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-\$36 million.

In September, the committee held its meeting at the University of Kentucky in conjunction with its 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 an industry 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 such as 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 that 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 have 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 pilot programs are an extension of a United States Department of Agriculture program to encourage the purchase of locally grown products by the public systems. These 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.

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 2008.

The commissioner for natural resources explained that safety provisions to improve ventilation and roof control and to 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 (NO_x), the new CAIR program will create both a seasonal and an annual program for NO_x and make further reductions in emissions of both SO₂ and NO_x.

Administrative Regulations

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

As of November 5, the committee had received 182 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 did not take separate committee action on the administrative regulations. In not taking any action, administrative regulations are 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.

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 of 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 State Nature Preserves Commission, *Biennial Report*, January 2007.

Kentucky Tobacco Research and Development Center, *Annual Report, July 1, 2005-June 30, 2006*, University of Kentucky College of Agriculture, 2007.

Kentucky Tobacco Research and Development Center, *Quarterly Report, January 1-March 31, 2007*, University of Kentucky College of Agriculture, 2007.

Kentucky Environmental and Public Protection Cabinet, Division of Waste Management: *Statewide Solid Waster Management Report - 2006 Update*.

University of Kentucky, College of Agriculture: *Kentucky Tobacco Research and Development Center, Quarterly Report, April 1-June 30, 2007*.

Cabinet for Economic Development, Department of Financial Incentives: *The Agriculture Warehousing Sites Cleanup Fund Annual Report for the period July 1, 2006, through June 30, 2007*.

Subcommittee on Natural Resources

The subcommittee held three meetings during the 2007 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 2007 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 2008 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 2007 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 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.

**Report of the 2007
Interim Joint Committee on Appropriations and Revenue**

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

Sen. David E. Boswell	Rep. Jesse Crenshaw
Sen. Tom Buford	Rep. Bob M. DeWeese
Sen. Carroll Gibson	Rep. Jon Draud
Sen. Denise Harper Angel	Rep. Danny R. Ford
Sen. Ernie Harris	Rep. Derrick Graham
Sen. Dan Kelly	Rep. W. Keith Hall
Sen. Alice Forgy Kerr	Rep. Jimmie Lee
Sen. Robert J. "Bob" Leeper	Rep. Mary Lou Marzian
Sen. Vernie McGaha	Rep. Lonnie Napier
Sen. R.J. Palmer II	Rep. Fred Nesler
Sen. Tim Shaughnessy	Rep. Don R. Pasley
Sen. Robert Stivers II	Rep. Marie L. Rader
Sen. Gary Tapp	Rep. Rick Rand
Sen. Elizabeth Tori	Rep. Charles L. Siler
Sen. Johnny Ray Turner	Rep. Arnold Simpson
Sen. Jack Westwood	Rep. John Will Stacy
Rep. Royce W. Adams	Rep. Tommy Turner
Rep. John A. Arnold, Jr.	Rep. John Vincent
Rep. Scott W. Brinkman	Rep. Jim Wayne
Rep. Dwight D. Butler	Rep. Robin L. Webb
Rep. Larry Clark	Rep. Brent Yonts
Rep. James R. Comer, Jr.	

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

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
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-Chair**

Sen. David E. Boswell
Sen. Alice Forgy Kerr
Sen. Richie Sanders, Jr.
Rep. Larry Clark
Rep. Tim Firkins
Rep. Dennis Keene

Rep. Lonnie Napier
Rep. Marie Rader
Rep. Susan Westrom
Rep. Jim Gooch, Jr., nonvoting ex officio
Rep. Ruth Ann Palumbo, nonvoting ex officio
Rep. Robin Webb, nonvoting ex officio

LRC Budget Review Staff: Jenny Anglin, Jeff Hancock, Kevin Mason, Perry Papka,
and Christina Lee

**Budget Review Subcommittee on
Education****Sen. Brett Guthrie, Co-Chair****Rep. John Will Stacy, Co-Chair**

Sen. Tim Shaughnessy
Sen. Ken Winters
Rep. Jon Draud
Rep. Derrick Graham
Rep. Mary Lou Marzian

Rep. Charles Miller
Rep. Rick G. Nelson
Rep. Tommy Turner
Rep. Frank Rasche, nonvoting ex officio
Rep. Robin Webb, nonvoting ex officio

LRC Budget Review Staff: Linda Jacobs Ellis, Jonathan Lowe, Greg Rush, Tom
Willis, 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
Sen. Elizabeth Tori
Sen. David L. Williams
Rep. Dwight Butler
Rep. Leslie Combs
Rep. Tanya G. Pullin

Rep. Rick W. Rand
Rep. Charles L. Siler
Rep. Ron Weston
Rep. Thomas M. McKee, nonvoting ex officio
Rep. Robin Webb, nonvoting ex officio

LRC Budget Review Staff: Kelly Dudley, Katherine Halloran, Greg Rush, 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
Sen. Daniel Mongiardo
Rep. Scott W. Brinkman
Rep. Bob M. DeWeese
Rep. Reginald K. Meeks

Rep. Darryl T. Owens
Rep. Kathy W. Stein
Rep. David Watkins
Rep. Tom Burch, nonvoting ex officio
Rep. Robin Webb, nonvoting 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. Johnny Bell
Rep. Ted Edmonds
Rep. John TilleyRep. John Vincent
Rep. Robin L. Webb
Rep. Brent Yonts
Rep. Kathy Stein, nonvoting ex officio

LRC Budget Review Staff: Jenny Anglin, Mike Mullins, and Christina Lee

**Budget Review Subcommittee on
Transportation****Sen. Robert Leeper, Co-Chair**
Rep. Don Pasley, Co-ChairSen. Perry Clark
Sen. Brett Guthrie
Rep. Eddie Ballard
Rep. James R. Comer, Jr.
Rep. Mike Denham
Rep. Danny R. Ford
Rep. W. Keith HallRep. Fred Nesler
Rep. Arnold Simpson
Rep. Ancel Smith
Rep. Jim Wayne
Rep. Hubert Collins, nonvoting ex officio
Rep. Robin Webb, nonvoting ex officio

LRC Budget Review Staff: Stephanie Craycraft, Stewart Willis, and Spring Emerson

Ex officio members for all subcommitteesSen. Charlie Borders
Sen. Ernie Harris
Rep. Harry Moberly, Jr.

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 2007 Interim, the Interim Joint Committee on Appropriations and Revenue held six meetings.

The committee held its first meeting on June 21 at the Northern Kentucky Convention Center. The governor addressed the committee regarding alternative fuels and alternative energy development. The executive director of the office of energy policy addressed the committee about current federal and state incentives and proposed federal incentives to promote alternative energy and alternative fuel development. She, along with the director of the Center for Applied Energy Research and the commissioner of financial incentives for the Economic Development Cabinet, discussed coal-to-liquid technologies and carbon issues. The chairman of the board emeritus of Griffin Industries discussed biodiesel production in Kentucky. Sen. Boswell, Sen. Stivers, and a representative from the Office of the State Budget Director discussed the senate energy proposal. Rep. Adkins discussed energy policy in general. The president of the Northern Kentucky Visitors and Convention Bureau and the executive director of the Northern Kentucky Convention Center discussed the expansion needs of the center.

At its second meeting, held on July 12 in Frankfort, the committee heard from the state budget director regarding state revenue receipts. He discussed the General Fund receipts for FY 2007, stating that the General Fund receipts increased by 2.4 percent, which was \$182.7 million more than FY 2006 enacted revenues but \$36.2 million less than estimated by the Consensus Forecasting Group. He stated that General Fund revenues were up by \$197.7 million (2.4 percent) over FY 2006 General Fund revenues. The total General Fund receipts for FY 2007 are projected to be \$8,573.8 million. The total budgeted for FY 2006 through FY 2008 is \$8,391.1 million, and the total estimated receipts are \$8,573.8 million, which leaves \$187.7 million in unbudgeted revenues. He discussed various conditions that contributed to the General Fund increase for FY 2007. These include the full implementation of the telecommunications tax, increased collection efforts by the Department of Revenue, improved state investment performance, and gains associated with legislation affecting abandoned property.

On September 27, the committee held its third meeting in Frankfort. The committee heard testimony from the chairman of the Board of Directors of the Kentucky Center for African American Heritage. She discussed the center's current work and

desired future expansion. A representative of Management Partnership Services, Inc. (MPS) presented a report directed by the General Assembly during the 2007 Regular Session relating to student transportation funding and operations in Kentucky. He stated that MPS studied four key aspects of transportation funding, evaluated the current funding formula in practice, and transportation operations in the state. He discussed funding formula alternatives and recommendations.

The committee held its fourth meeting on October 18 in Lexington at Keeneland. The mayor of Lexington briefly discussed various projects proposed by the city. The executive director of the Kentucky Horse Park discussed current and possible future funding for projects at the Horse Park. The president of the 2010 Alltech FEI World Equestrian Games discussed the Games and the importance of the proposed projects to their success. He gave a slide presentation illustrating the vision for the Horse Park once all the proposed projects are completed. The president of the University of Kentucky updated the committee regarding the university's Top 20 Business Plan.

The committee held its fifth meeting on November 19 in Frankfort. The director, the chairman of the board, and a board member of the Louisville Zoo gave a presentation regarding the Louisville Zoo Glacier Run project. The president of the Council on Postsecondary Education presented the 2008-2010 postsecondary and adult education budget request. The executive director of the Court Appointed Special Advocates of Jefferson County and the director of the Kentucky Court Appointed Special Advocates discussed the services they provide children throughout the state. The government affairs specialist for Goodwill Industries of Kentucky discussed 07 RS BR 147.

On December 10, the committee held its sixth meeting in Frankfort. Rep. Wayne discussed BR 49, addressing the establishment of a problem gaming fund. Representatives from the Consensus Forecasting Group discussed the state revenue outlook for the next biennium. A representative from the Save the Children organization discussed programs for children in eastern Kentucky. A representative from the Kentucky Higher Education Assistance Authority discussed student loans and loan forgiveness.

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 one meeting during the 2007 Interim.

The first meeting was held on November 19 in Frankfort. The executive director of the Office of Financial Institutions, as well as the office's deputy director, division director of financial institutions, and division director of securities, spoke concerning the retirement of senior bank examiners and the difficulty in retraining new examiners quickly. Afterward, the commissioner of the Department of Natural Resources and executive director of the Environmental and Public Protection Cabinet's Office of Administrative Services spoke regarding salary adjustments for mine inspectors and engineers in the cabinet, in accordance with House Bill 380 (2006).

The final presentation was by the commissioner of the Department of Parks who spoke regarding the completion status of various park projects and park funding pools.

**Budget Review Subcommittee on
Education**

The Budget Review Subcommittee on Education held one meeting during the 2007 Interim.

The meeting was held on November 19 in Frankfort. The commissioner of public health presented information to the subcommittee relating to Methicillin-resistant Staphylococcus aureus (MRSA) in public schools. He described the relationship between the Department of Public Health and the Department of Education and the steps they were taking jointly to inform school districts about preventing MRSA infections. Also, the director of nutrition and health services from the Department of Education gave a brief presentation on the specific steps the department was undertaking to assist school districts in dealing with MRSA. The subcommittee then heard a presentation from the associate commissioner of the Office of District Support Services within the Department of Education relating to the facilities planning process for local school districts. The presentation detailed the process that local school districts follow in planning for new facilities and the process followed by the department in reviewing and approving local facility plans. Discussion followed between subcommittee members and the presenters as to whether the planning process, as described, was followed in all instances and whether it was being consistently applied.

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 2007 Interim.

The meeting was held on November 19 in Frankfort. The purpose of the meeting was for the commissioner of the Kentucky Department of Agriculture to give an update on the activities of the Fuel/Pesticide Testing Laboratory and the status of the Animal Shelter Program. The agency advised the subcommittee that ground was broken for the construction of the lab in early fall of 2007 and should be completed in time for scheduled preliminary sample testing on January 14, 2008. The commissioner provided a remaining timeline for the project. The commissioner introduced the director of the Motor Fuels and Pesticide Testing Division, who provided an overview of the types of equipment purchased and the current status of the laboratory. There are currently four existing labs throughout the country. The Kentucky lab will be the largest such facility in the country, with the capacity to test an estimated 20,000 to 30,000 samples annually. Anticipated future revenues are to be near \$500,000 annually. Revenue will be generated from testing fuel/pesticide samples from other states, and the facility should be self-sustaining by the year 2010. The agency requested funding for 16 positions in the current budget but is not able to fill them until the lab is operational. Thus, the agency will again request funding for these positions in the upcoming budget process.

The next issue addressed was the state's Animal Shelter Program. The program received funding in two of the last three biennial budgets for a total of \$2.6 million. The grants are funded with an 80/20 match with local funds. The program requested additional funding of \$2.5 million over the current biennium and was vetoed by the Governor in House Bill 380, enacted during the 2006 Regular Session. To date, the program has awarded 51 grants (27 percent of requests) averaging \$50,000 per award. Total requested amount from counties comes to approximately \$9.5 million.

Budget Review Subcommittee on Human Resources

The Budget Review Subcommittee on Human Resources did not meet during the 2007 Interim.

Budget Review Subcommittee on Justice and Judiciary

The Budget Review Subcommittee on Justice and Judiciary did not meet during the 2007 Interim.

Budget Review Subcommittee on Transportation

The Budget Review Subcommittee on Transportation held one meeting during the 2007 Interim.

The meeting was held on November 19 in Frankfort and consisted of Transportation Cabinet presentations relating to an update on the status of the road fund and highlights of the cabinet's biennial budget request for 2008-2010. The discussion relating to the road fund included final receipts for 2007 and estimated receipts for 2008, 2009, and 2010; the gasoline tax rates for 2004-2008; and a comparison of Kentucky's gasoline tax rate to the rates of surrounding states. The discussion related to the cabinet's Biennial Budget Request included the need for increased match for federal public transportation dollars and a request to return the Aviation Jet Fuel tax receipts to the Aviation program. A summary of capital projects was provided, and additional budget requests for personnel and maintenance funding were highlighted. Further topics discussed were the state-maintained bridge condition ratings; the Louisville Bridges project and the need for alternative financing; the formula for the revenue sharing for the county, rural secondary, and municipal road programs; and toll credits.

**Report of the 2007
Interim Joint Committee on Banking and Insurance**

**Sen. Tom Buford, Co-Chair
Rep. Tommy Thompson, Co-Chair**

Sen. Julie Denton	Rep. Danny Ford
Sen. Ernie Harris	Rep. James Gooch
Sen. Tom Jensen	Rep. J.R. Gray
Sen. Daniel Mongiardo	Rep. Jeff Greer
Sen. Gerald Neal	Rep. Mike Harmon
Sen. Dorsey Ridley	Rep. Jimmy Higdon
Sen. Richard Roeding	Rep. Dennis Horlander
Sen. Dan Seum	Rep. Dennis Keene
Sen. Tim Shaughnessy	Rep. Adam Koenig
Rep. Sheldon Baugh	Rep. Rick Rand
Rep. Johnny Bell	Rep. Frank Rasche
Rep. James Comer	Rep. Steve Riggs
Rep. Ron Crimm	Rep. Brandon Smith
Rep. Robert Damron	Rep. John Tilley
Rep. Mike Denham	Rep. Ken Upchurch
Rep. Teddy Edmonds	Rep. David Watkins
Rep. Tim Firkins	Rep. Ron Weston
Rep. Joseph Fischer	Rep. Susan Westrom

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

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee on Banking and Insurance

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

Committee Activity

The Interim Joint Committee on Banking and Insurance met six times during the 2007 Interim.

The committee held its first meeting on June 26 in Frankfort. Rep. Gray discussed with the committee legislation he introduced at the 2007 Regular Session that would prohibit a property and casualty insurer from rating a risk based on credit history of the insured or applicant. He stated that 12 percent of Americans are affected by credit scoring, and he intends to introduce the legislation at the 2008 Regular Session. The executive director of the Office of Insurance testified that credit data is used in predicting loss and that a prohibition on the use of credit scoring could cause an increase in premiums for some insureds and affect availability of insurance. Representatives of State Farm Insurance and the Insurance Institute of Kentucky spoke in favor of allowing credit scoring. The committee also discussed the issue of auto insurers issuing insurance to persons who do not have an operator's license, particularly illegal immigrants.

The second meeting was held in Frankfort on July 24. Rep. Keene discussed with the committee the legislation he introduced at the 2007 Regular Session that would have required health benefit plans to adopt current, reasonable, and fair reimbursement schedules for services and procedures performed by chiropractors. The reimbursement must be no less than the fee schedule for workers' compensation. The committee heard testimony from chiropractors, the executive director of the Kentucky Association of Health Plans, and the executive director of insurance. The chiropractors agreed to meet with the Kentucky Association of Health Plans at the Office of Insurance to discuss their differences.

The committee's third meeting was held in Louisville on August 30. The executive director of the Kentucky Bankers Association (KBA) testified before the committee on the role of banking institutions in protecting consumers from identity theft and account fraud. He emphasized that unlike many other industries that maintain or process consumer information, banking institutions and their customer information security programs are subject to regulatory requirements and regular examinations. The

best way to promote information security is by a uniform national standard. Federal legislation would eliminate safe havens that criminals take advantage of and allows federal authorities to pursue the criminals on a national basis. KBA recommended that the Kentucky General Assembly amend the law to include bank robberies as a category of violent crime requiring mandatory minimum time served. KBA has discovered that bank robbers receive minimum sentences and are let out of jail or prison early, even when a weapon was involved. The committee also heard testimony from the president of the American Association of Retired Persons (AARP) of Kentucky regarding the marketing of financial products to senior citizens. He recommended that the General Assembly establish a toll-free telephone number for buyers or prospective buyers of financial products, begin a media program that warns customers they need information before purchasing financial products, and give special attention to annuity marketing.

The fourth meeting of the committee was held on September 25 in Frankfort. The committee was addressed by the executive director of Kentucky Youth Advocates. He presented a report prepared by the Brookings Institution on the high price of being poor in Kentucky. Among its findings, the report concluded that depending on where lower-income consumers live and what combination of necessities are consumed, lower-income families can pay up to thousands of dollars more than higher-income consumers every year for basic financial services, cars, car loans, car insurance, home insurance, home loans, furniture, appliances, electronics, and other basic necessities.

The committee met for the fifth time on October 23 in Frankfort. The committee heard testimony on the 2008 Kentucky Employee Health Insurance Plan from the secretary of the Personnel Cabinet and members of his staff and the secretary of the Cabinet for Health and Family Services. Premiums for 2008 reflect a 5.8 percent increase in costs, but benefits will remain essentially the same for the 10th straight year. Pharmacy and medical benefits will require modest adjustments in the future. A representative of Humana testified that the Humana Access card is the industry's first identification and stored-value debit card. The card eliminates the majority of claim forms, makes it easy to access funds, and eliminates the wait for a reimbursement check.

The sixth meeting was held in Frankfort on November 28. A representative of the AARP of Kentucky expressed the association's concern about predatory residential mortgage lending and home mortgage foreclosures. A spokesperson for the Kentucky Equal Justice Center testified there is a subprime mortgage crisis in Kentucky and the nation due in large part to faulty and unethical practices in the residential mortgage lending business. The committee was urged to consider legislative reforms, including requiring all underwriting for mortgage loans to be based on the borrower's ability to repay; prohibiting all prepayment penalties; establishing that a mortgage loan broker has a fiduciary duty to the borrower; establishing appraiser liability for misconduct; and creating a Kentucky Homeownership Protection Center to provide counseling, loss mitigation, and a loan or grant to homeowners in default on their home loans. The committee also heard testimony from representatives of the Kentucky Bankers Association and the American Bankers Association. The committee was urged to focus on those in the financial services industry who were truly at fault and not paint with too

broad a brush. Thirty-five percent of homeowners have no mortgage debt and 94 percent of mortgage holders pay on time. Subprime loans account for just 14 percent of all mortgages but represent the most serious delinquency problems.

**Report of the 2007
Interim Joint Committee on Economic Development and Tourism**

**Sen. Alice Forgy 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. Melvin B. Henley
Sen. Ray S. Jones II	Rep. Dennis Horlander
Sen. Jerry P. Rhoads	Rep. Joni Jenkins
Sen. Richie Sanders, Jr.	Rep. Dennis Keene
Sen. Katie Stine	Rep. Thomas Kerr
Sen. Gary Tapp	Rep. Adam Koenig
Sen. Jack Westwood	Rep. Thomas M. McKee
Sen. Ken Winters	Rep. Brad Montell
Rep. Royce W. Adams	Rep. Tim Moore
Rep. Carolyn Belcher	Rep. Fred Nesler
Rep. Larry Belcher	Rep. David Osborne
Rep. Kevin D. Bratcher	Rep. Ruth Ann Palumbo
Rep. Larry Clark	Rep. Don Pasley
Rep. Leslie Combs	Rep. Dottie Sims
Rep. Tim Couch	Rep. Ancel Smith
Rep. Jesse Crenshaw	Rep. Brandon D. Smith
Rep. Jim DeCesare	Rep. John Will Stacy
Rep. W. Milward Dedman, Jr.	Rep. Tommy Thompson
Rep. Mike Denham	Rep. Robin L. Webb
Rep. Bob M. DeWeese	Rep. Ron Weston
Rep. Myron Dossett	Rep. Addia Wuchner
Rep. Ted "Teddy" Edmonds	

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

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Subcommittee Organization and Membership

Task Force on Economic Development

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

Sen. Julian Carroll	Rep. Myron Dossett
Sen. Julie Denton	Rep. Ted “Teddy” Edmonds
Sen. Brett Guthrie	Rep. Melvin B. Henley
Sen. Denise Harper Angel	Rep. Dennis Horlander
Sen. Ray S. Jones II	Rep. Joni L. Jenkins
Sen. Jerry P. Rhoads	Rep. Dennis Keene
Sen. Richie Sanders, Jr.	Rep. Thomas Kerr
Sen. Katie Stine	Rep. Adam Koenig
Sen. Gary Tapp	Rep. Brad Montell
Sen. Jack Westwood	Rep. Fred Nesler
Sen. Ken Winters	Rep. Don Pasley
Rep. Kevin D. Bratcher	Rep. Dottie Sims
Rep. Tim Couch	Rep. Ancel Smith
Rep. Jesse Crenshaw	Rep. John Will Stacy
Rep. Jim DeCesare	Rep. Tommy Thompson
Rep. Mike Denham	Rep. Addia Wuchner
Rep. Bob M. DeWeese	

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 2007 Interim, the Interim Joint Committee on Economic Development and Tourism met five times.

The first meeting was held on June 21 at the Northern Kentucky Convention Center in Covington. The meeting focused on the causes, promises, and problems of rapid economic development changes in the northern Kentucky region. The Campbell County judge/executive and the president and chief executive officer of the Tri-County Economic Development Corporation (Northern Kentucky Tri-ED), which represents Campbell, Kenton, and Boone Counties, opened the meeting with an overview of the region's economic growth. The judge/executive said that within the last 10 years, 39,000 new jobs have been created in the Northern Kentucky Tri-ED area. On average, over the last 20 years, there were 22 announced projects per year that generated 2,100 new jobs and \$200 million in investments. Cooperation between counties has been one of the key factors spurring this growth. The Tri-County Economic Development Corporation is a public/private partnership focusing on advanced manufacturing, office space, aviation, and technology-oriented projects. The Northern Kentucky Tri-ED board consists of 17 members with a staff of nine. One of its successes is the Fidelity Office Park that is scheduled to open later this year. It includes a 350,000 square foot office building and will create 1,500 new jobs with an average salary of \$55,000. Upon completion, more than 4,200 people will be employed on its campus.

Discussion turned to the job training development grant increase to \$8 million, which was part of the 2007 General Assembly jobs training bill for the Ford Plant expansion. This increase was beneficial and will be fully allocated by the end of the 2008 fiscal year. The committee and the General Assembly were urged to continue funding state job training programs and to consider increased funding in the future.

The speakers commended the Economic Development Partnership Board and noted that the continuity and lack of political influence on the board was essential for successful economic development programs in the state.

Next, an attorney for Corporex talked about the benefits of tax increment financing (TIF). In 1952, California passed the first TIF legislation, and 49 states now have some form of tax increment financing. She said the TIF legislation approved by the 2007 General Assembly will allow statewide participation that extends beyond first-class cities. From a developer's perspective, it is a commitment by the state to enhance partnerships between public and private enterprises. She said Newport is transforming a former public housing development site into a \$900 million multiuse economic center that will serve as a gateway to Kentucky. The center will contain more than 1 million square feet of office space, 200,000 square feet of retail space, nearly 1,000 personal residences, lodging, and entertainment complexes. She said development planning is underway with the City of Newport, and a grant pledge agreement with the state is in progress.

Next, a presentation was given on the Florence City Center Revitalization Project. Most retail competition in the area comes from Ohio, and shoppers tend to look for anchor stores and ambiance. Local leaders consider the revitalization project to be of utmost importance so that the area can continue to compete with southern Ohio. The vision is for a dominant, high-growth commercial hub in northern Kentucky that will feature indoor and outdoor environments including walking and bike paths, shops, restaurant, residential developments, offices, and other entertainment facilities. In combination with Mall Road's 2 million square feet of retail space and Huston Road's 2 million square feet, it is the largest retail district in Kentucky. One key problem is traffic congestion on the area's primary road, Mall Road, which was built in the early 1970s. In 1993, the state assumed ownership of this highway. Mall Road has experienced a 30 percent increase in traffic in the last three years. There are nearly 8 million annual visitors to the mall and more than \$15 million in new construction in 2006. A new theater is estimated to generate 800,000 visitors, or 356,000 vehicles per year. Mall Road needs to be redesigned and rebuilt to create more of a community environment. The reconstruction of Mall Road will increase square footage available for residential, office, and entertainment space by 1.8 million square feet. Property value will increase \$219 million and the number of jobs will double to 7,000.

Next, the president of Vision 2015 gave a presentation on the region's strategic planning effort for the next 10 years. Developed in 2005-2006, Vision 2015 is a task force that includes representatives from six counties in the northern Kentucky area. Vision 2015 has five strategic areas: effective governance, educational excellence, livable communities, urban renaissance, and regional stewardship, which are all based on economic development. The plan represents the communities' priorities for the next 10 years and includes 27 initiatives ranging from greater residential housing development to enhanced art and entertainment options.

Finally, the mayor of Newport gave a brief presentation about the success of Newport on the Levee. He noted that expansion plans include a hotel, office space, condos, and entertainment. Other development projects in the Newport area include 200 condo units; a Class-A office tower; a marina; the Ovation Project, designed to change the image of the city and public housing; Newport on the Pavilion, a \$100 million project including major retail stores; and Monmouth Street, a \$9 million historic downtown shopping area and housing project.

The second meeting was held in Frankfort on August 16. The meeting began with a presentation by the vice president of ConnectKentucky, which is an organization focused on the development and deployment of broadband technology throughout Kentucky.

Currently, 94 percent of Kentucky's households have some form of broadband Internet service available. In 2004, only 60 percent, or 532,000 households, had broadband access. The areas without access tend to be extremely rural, and the remaining gaps could be filled by working with the private sector in identifying market opportunities relating to broadband deployment through partnerships with cable, telephone, and fixed wireless companies. Satellite broadband providers will be necessary to serve a segment of Kentucky that will likely require satellites for broadband access.

Kentucky has led the country in terms of extending broadband to its residents. Since 2005, 18,400 technology jobs were created—a growth rate that has significantly outpaced the national average. He said that established infrastructure is the foundation through which Kentucky can build economic growth through the deployment of broadband.

The benefits of broadband technology are visible through eHealth, eGovernment, digital inclusion, educational opportunities, economic development, and independent living by empowering an aging society. He said ConnectKentucky has become a national model for other states. ConnectedNation was launched to translate Kentucky's success to other states, including Massachusetts, California, West Virginia, and Tennessee.

The third meeting was held in Frankfort on September 20. The focus of the meeting was the Vest-Lindsey House in Frankfort. Representatives from several state and local historic preservation societies and officials from the Kentucky Heritage Council, the Office of Arts and Cultural heritage, and the Office of Historic Preservation gave presentations on the history of the Vest-Lindsey House and its importance to tourism efforts in the area.

Located in the Corner in Celebrities district of Frankfort, the Vest-Lindsey House was built in the early 1800s, it was the boyhood home of George Graham Vest, who served in the United States Senate for 25 years and was a member of the Congress of the Confederate States of America. In 1846, the house was sold to Thomas Noble Lindsey, a prominent attorney and state legislator. The Lindsey family owned the home for the next

100 years until its purchase by the state in 1965 when it was restored and became the offices of the Heritage Commission.

In 2003, the Vest-Lindsey House was allocated to state offices. A request will be made of the 2008 General Assembly to consider legislation that would implement earlier recommendations to return the home to a state meeting house, develop interpretation, maintain the house as a central location to provide tour and visitor information, assist and support fundraising, create an advisory committee to advise the governor and secretary of the Finance and Administration Cabinet, and to grant an easement restricting use of the building as office space to be effective when a \$200,000 endowment is reached. It was suggested that along with the easement, the property should be transferred to a local group or the Heritage Council along with the \$700,000 that was raised to be used for operating and maintenance expenses.

Next, the executive director of the Municipal Electric Power Association of Kentucky (MEPAK) and representatives from the Barbourville Utility Commission, the Bowling Green Municipal Utilities Corporation, and Murray Electric Systems gave a presentation on municipal utilities and their involvement with telecommunications. The Kentucky Municipal Utilities Association (KMUA) consists of MEPAK and the Municipal Water and Wastewater Association. KMUA represents 59 municipal utilities that are owned by the citizens and provide local essential services like telecommunications. Municipal utilities have made a positive economic impact by providing broadband service to the cities of the Commonwealth. Businesses locate in cities with low-cost, reliable, state-of-the-art Internet services. If they cannot get these services in Kentucky, they go elsewhere. Municipal broadband services have been a success for the state, and protecting municipal broadband providers is necessary for their continued success. Legislation favoring one type of technology or one industry over another is detrimental to the success of municipal utilities, and economic incentives or tax breaks should be offered to consumers not to large corporations.

Municipal utilities have had a positive impact on economic development in the state. The City of Glasgow is considered a pioneer in providing advanced telecommunications by being the first to provide these services. Nationwide, 700 municipals provide broadband services to hospitals and schools and 200 provide broadband to the public. There are 13 municipal utilities in Kentucky providing broadband services to 57,000 people. Outside the major metropolitan areas, telecommunication companies are not providing broadband services to Kentuckians. It was pointed out that although previous testimony stated that 94 percent of the Kentucky has been mapped for broadband, in reality, only 34 percent of Kentuckians actually have Internet service in their homes. Without a metropolitan-size customer base, private companies have difficulty justifying the expense to their shareholders.

Finally, the president of a Kentucky-based international tourism marketing firm gave a presentation on the importance of European tourism to Kentucky. What Kentucky currently offers is limited to the well-known industries of bourbon and equine sports. The state should focus on tourism from Europe, specifically Germany. He said tourism trade

is based on perception and developing it requires sensitivity. He recommended culturally sensitive tourism diplomacy through public relations and promotions. He said Kentucky should identify its marketable products, cross-match those with targeted interest groups and develop strategies to encourage tourism. He said the upcoming Ryder Cup and the 2010 Alltech FEI World Equestrian Games are great opportunities to market Kentucky. He said the state should have an experienced coordinator with a single focus on Kentucky, grounded in the culture and business environment in the state and in Europe.

The fourth meeting was held at Keeneland on October 18. The meeting opened with a presentation by the president and chief executive officer of Keeneland. He began by noting that last year, 8,418 thoroughbreds were sold at Keeneland, with nearly all of the buyers coming from outside Kentucky, and with most of the proceeds remaining in the state. He said last year's yearling sale totaled \$299 million, while this year's total was \$285 million. In 2006, 32 horses were sold for more than \$1 million each, totaling \$89 million. The same number of horses sold this year for \$49 million. He said that although business was down, the middle and lower areas of the market continued to be strong. He said 475,000 people attend the racing meets each year, with half of those coming from outside the Lexington area.

Next, the councilman from the Urban County Council's 9th District gave a presentation about the Healthway Initiatives Program. He said Kentucky has some of the most beautiful areas in the United States but most cannot be seen by car. He said a movement has begun in Lexington to promote healthier people, a healthier environment, and a healthier economy through a Greenways/HealthWay Trail System, which is a series of walking and bicycling trails or greenway paths to connect various sections of a community.

He said the model of 21st century economic development is to build communities that are attractive to knowledge-based, primarily young professionals. He said there are very specific things this group wants, such as a trail system, a way of getting around other than by car, a beautiful environment, economic opportunity, and a high quality of life. He said Ohio, Virginia, and Minnesota have ideal trail systems. He said Kentucky could save \$80 million per year in health care costs if 10 percent of Kentuckians walked 30 minutes a day, three times per week. He said the question is where would people walk in Kentucky without trails. He said Kentucky is 20 years behind on developing a trail system, but this could be reversed in five years. Lexington has created a replicable model that can be used across the state. Casey, Shelby, and Hopkins Counties have all shown interest in this model. The Lexington greenway system will connect downtown to the Kentucky Horse Park and then on to the Kentucky River in Garrard County. Members were challenged to review the Rails to Trails legislation, to look at Georgia's model, and to appropriate \$20 million in the next two budgets to create a fund for communities that are ready to proceed.

Next to speak was a commissioner with the Federal Communications Commission. The commissioner said broadband technology was one of the keys to economic development, and that ConnectKentucky has become a nationwide model for

its efforts to extend this technology to rural areas. She said Kentucky is on its way to reaching the 98 percent connectivity goal.

The fifth and final meeting was held on November 15 at the Frazier International History Museum in Louisville.

The chairman of the museum welcomed the committee and talked briefly about the museum's importance to education and to tourism and economic development in the state. After a short presentation about the museum, the newly appointed executive director said the museum is currently planning exhibitions on Japan, China, and India, and that the museum would also be heavily involved with exhibitions focusing on the Abraham Lincoln Bicentennial. She said the museum will be asking for state assistance to help with its educational programming components and interactive distance learning for rural schools.

Next, the commissioner of the Department of Tourism, the chief executive officer of the World Games 2010 Foundation, and the executive director of the Kentucky Horse Park gave an update on preparations for the 2010 Alltech FEI World Equestrian Games. The Games will be marketed as a statewide event, and because this will be the first time in history that the event has been held outside Europe, it is expected that there will be a significant economic impact throughout Kentucky. There will be more than 1,000 athletes, 800,000 visitors, and a worldwide television audience of more than 500 million. A conservative economic impact of \$150-200 million is anticipated.

To prepare for the Games, the Kentucky Horse Park is currently undergoing a major overhaul for the first time. New or improved roads within the park are being built, an 8,000-seat indoor arena is under construction, and a major hotel is underway. Five-hundred temporary structures will be built. This will be the first time all of the equestrian games are held in a single location.

Next, representatives from the Louisville Zoo gave a presentation on the proposed Glacier Run project. They noted that the Louisville Zoo is the only accredited zoo in Kentucky and is one of just 216 accredited zoos in the nation. Last year, the zoo received more than 810,000 visitors. The Glacier Run project will simulate a small village on the edge of an arctic wilderness. There will be "nose-to-nose" encounters with seals, polar bears, and other arctic wildlife. The project will be geared toward providing a high-quality educational experience for visitors. To accomplish this project, the General Assembly is asked to fund \$7.5 million to help with construction costs.

Finally, representatives from the Kentucky Manufacturing Assistance Center, Ceradyne Corporation, and Semicon Associates presented information on the legislative history of the Kentucky Manufacturing Assistance Center, the role it fills in providing technical help to manufacturers, and the changes that have been made in how such services are provided and to whom they are provided in the wake of budget cuts. The director of the center testified that prior to last fiscal year's budget cuts, the center was able to provide much more extensive assistance to rural manufacturers, but now they are

much more constrained in doing so because of staff cuts. The representatives from Ceradyne and Semicon Associates also testified about the value of the center's assistance and how greater productivity and efficiency are important to small manufacturers in order to remain competitive in a global environment. The center's director testified that because of state budget cuts, there were federal dollars that were unable to be matched, thus the center was doubly impacted by budget cuts.

Subcommittee Activity

Task Force on Economic Development

The Task Force on Economic Development met once during the 2007 Interim, on September 20 in Frankfort.

The focus of the meeting was tax increment financing (TIF).

The counsel to the Lexington Downtown Development Authority began the meeting with an explanation of the Lexington area's recent participation with TIF programs. Until legislation was passed this year, downtown Lexington did not qualify under existing TIF programs. Under the newly created program, two applications are expected in 2008. He noted, however, that efficiency is lost with TIF projects due to credit enhancement. The market evaluates risk—the bonds associated with them—to determine if there will be sufficient revenue through a coverage ratio of 2:1, or through interest rates. He said consideration of credit enhancement in the form of guarantees from the state and local governments should be considered and that a bond pool might make the program more efficient.

He added that there is time lag while waiting for project completion that needs to be financed and that this lag is an impediment to getting the project launched. He suggested using income tax credits relating to construction activities as a form of bridge financing. In regard to possible changes to existing legislation, he suggested adding technology, biotechnology, and health sciences to the "mixed use" list, and he recommended removing the word "blighted" from the Urban Blighted Area TIF program.

The commissioner of the Department of Revenue and the department's legal counsel gave a brief overview of the state TIF process. The commissioner said Kentucky was 49th in passing statewide TIF legislation. The 2007 TIF legislation created the Division of Tax Increment Financing in the Department of Revenue and the Kentucky Tax Increment Financing Commission. Previously, the TIF program was administered by the Cabinet for Economic Development. The commissioner said TIF is a complicated financial proposal and that many communities are not familiar with its uses and process. The department's role is to be a portal for applications and an education center for communities. He explained that the TIF program was placed in the Department of Revenue due to its auditing functions. The commissioner explained that once an application is reviewed and is deemed compliant, the department refers it to the TIF

Commission, which is chaired by the secretary of the Finance and Administration Cabinet.

The commissioner said one of the challenges for applicants is to estimate old revenue. These estimates are based on the possible sales and income tax revenue of a development area; however, because they do not have access to previous tax information from each business, applicants base estimates on the number of businesses and employees in a zone. He said Missouri has turned this task over to its revenue department for a more accurate estimate.

Next, the director of governmental affairs and the counsel for Member Legal Services of the Kentucky League of Cities (KLC) testified about TIF programs. KLC has conducted five statewide informational meetings on TIF, and it was noted that an important component of TIF includes a solid planning process that encourages a partnership between developers and local governments. The director said the local-only TIF program is important to smaller communities and that many smaller cities have expressed an interest in TIF. KLC is continuing to educate cities on TIF legislation because it expects more interest in the future.

Finally, officials from the Louisville Metro mayor's office and Greater Louisville, Inc. explained Louisville's TIF progress. Two entities—one from Orlando, Florida, and the other from New York City—have said that Kentucky's 2007 TIF legislation is currently the national model. The spokesperson from the Louisville Metro mayor's office said some changes should be considered during the 2008 Session to make the TIF legislation less cumbersome. Three suggestions for legislative improvement were given. First, that the TIF Commission be located in the Economic Development Cabinet due to the agency's background in incentives. He said the Department of Revenue should be involved in the process but should not be the lead agency. Second, the \$20 million threshold for urban and blighted use should be changed, and structured parking facilities should be eligible for TIF funding. Lastly, the compensating tax rate should be changed so that local governments are treated as an equal to the state government in relationship to House Bill 44. He said that local governments end up funding their portion of TIF from local general funds and that some small communities will not be able to utilize TIF due to an inability to fund TIF projects.

**Report of the 2007
Interim Joint Committee on Education**

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

Sen. Walter Blevins, Jr.	Rep. Bill Farmer
Senator Charlie Borders	Rep. Tim Firkins
Sen. Brett Guthrie	Rep. Jim Glenn
Sen. Alice Forgy Kerr	Rep. Jeff Greer
Sen. Vernie McGaha	Rep. Jimmy Higdon
Sen. Gerald A. Neal	Rep. Mary Lou Marzian
Sen. R.J. Palmer II	Rep. Reginald K. Meeks
Sen. Tim Shaughnessy	Rep. Charles Miller
Sen. Johnny Ray Turner	Rep. Harry Moberly, Jr.
Sen. Jack Westwood	Rep. Russ Mobley
Sen. David L. Williams	Rep. Rick G. Nelson
Rep. Mike Cherry	Rep. Marie Rader
Rep. Hubert Collins	Rep. Tom Riner
Rep. Leslie Combs	Rep. Carl Rollins II
Rep. Jim DeCesare	Rep. Charles L. Siler
Rep. Milward Dedman, Jr.	Rep. Dottie Sims
Rep. Jon Draud	Rep. David Watkins
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, Jacinta Manning, and Janet Oliver

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Subcommittee Organization and Membership

Subcommittee on Elementary and Secondary Education

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

Sen. Walter Blevins	Rep. Jeff Greer
Sen. Brett Guthrie	Rep. Jimmy Higdon
Sen. Tim Shaughnessy	Rep. Harry Moberly, Jr.
Sen. Jack Westwood	Rep. Rick Nelson
Rep. Larry Belcher	Rep. Marie Rader
Rep. Mike Cherry	Rep. Dottie Sims
Rep. Hubert Collins	Rep. David Watkins
Rep. Milward Dedman, Jr.	Rep. Ron Weston
Rep. Jon Draud	

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

LRC Staff: Janet Stevens, Jacinta Manning, and Janet Oliver

Subcommittee on Postsecondary Education

Sen. Charlie Borders, Co-Chair
Rep. Mary Lou Marzian, Co-Chair

Sen. Alice Forgy Kerr	Rep. Tim Firkins
Sen. Gerald Neal	Rep. Jim Glenn
Sen. R.J. Palmer II	Rep. Reginald K. Meeks
Sen. Johnny Ray Turner	Rep. Charles Miller
Sen. David Williams	Rep. Russ Mobley
Rep. Leslie Combs	Rep. Tom Riner
Rep. Jim DeCesare	Rep. Carl Rollins II
Rep. C.B. Embry	Rep. Charles Siler
Rep. Bill Farmer	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 2007 Interim.

The committee was organized into two subcommittees: Elementary and Secondary Education, and Postsecondary Education.

The committee held four meetings in Frankfort and made two site visits. During the Frankfort meetings, members heard presentations on the status report of Kentucky adult education and the changes that the program is implementing to better promote the postsecondary strategic agenda; the Kentucky Reading Project, an intensive professional development program for elementary teachers to assist them in implementing good reading instruction in the classroom; the distribution of technology funds and their impact and the 2007-2012 Kentucky Education Technology System Master Plan; a study of Kentucky's student transportation funding formula; the results of the 2007 Commonwealth Accountability Testing System; a presentation on writing portfolio changes and responses from the practitioners; a progress report on the development and pilot testing of end-of-course testing; the value of P-K programs to children in Kentucky; changes to the master's of education programs in Kentucky institutions and the Kentucky Internship Program; the preparation and support for the next generation of Kentucky's school district leaders; and an update on Kentucky's regional stewardship program.

The committee reviewed Executive Order 2007-5001, relating to the reorganization of the Kentucky Department of Education. The committee also reviewed administrative regulations 702 KAR 7:065, which designates an agent to manage high school interscholastic athletics; 11 KAR 3:100, regarding administrative wage garnishment; 11 KAR 5:145, regarding the College Access Program grant award determination procedure; and 707 KAR 1:290, 707 KAR 1:300, 707 KAR 1:310, 707 KAR 1:320, 707 KAR 1:331, 707 KAR 1:340, 707 KAR 1:350, 707 KAR 1:370, and 707 KAR 1:380, all regarding exceptional and handicap programs.

Committee members visited Transylvania University in Lexington while the Governor's School for the Arts (GSA) was on campus. During the site visit, committee members had an opportunity to see GSA student performances in architecture, instrumental music, creative writing, and drama. The GSA executive director gave an

overview of the program and its accomplishments, including being recognized in 2005 as a “Coming-Up-Taller” semifinalist by the President’s Committee in Arts and Humanities. She also outlined some of the program’s future goals, such as adding a second campus and expanding its curriculum to include media arts.

Members visited Louisville during the convention of the Kentucky Association of School Administrators, where they heard from one of the convention’s speakers about strategies to better serve at-risk students and to improve low-performing schools. Other agenda items included review of administrative regulations 16 KAR 1:030, procedures for certificate revocation, suspension, reinstatement and reissuance, and application denial; 16 KAR 9:080, university-based alternative certification; and 102 KAR 1:175, Investment Policies.

Subcommittee Activity

Subcommittee on Elementary and Secondary Education

The Subcommittee on Elementary and Secondary Education met three times during the 2007 Interim. The first meeting focused on the Kentucky Certified Personnel Evaluation Program. Members heard staff from the Kentucky Department of Education and the Kentucky Association of School Administrators give an overview of the process used by local school districts to develop, implement, and revise district-certified personnel evaluation plans; an explanation of how administrators are trained to implement district plans; and how staff evaluation is used to improve teaching and learning. They explained that, as part of the evaluation process, each certified staff member is required to annually develop a professional growth plan; that district evaluation plans are monitored as part of the Scholastic Audit and Scholastic Review process; and that additional programs have been designed to assist evaluators when collecting comprehensive evaluation data. Steps to be taken to assist teachers who receive unfavorable evaluations and the process to be followed to remove ineffective teachers were discussed at length.

The second meeting of the subcommittee focused on how the needs of Kentucky’s exceptional children are being met. Presentations were made by staff members of the Gatton Academy of Mathematics and Science, a residential, year-long program housed at Western Kentucky University that is designed for students interested in careers in science, technology, engineering, and math; the Governor’s Scholars Program, a five-week residential summer program for academically gifted students who have just completed their junior year in high school; and the Kentucky Department of Education Office of Special Instructional Services, which is meeting the needs of approximately 10,000 students between the ages of 3 and 21 with physical or mental disabilities enrolled in Kentucky schools.

The passage of House Concurrent Resolution 214 in 2006 directed the Interim Joint Committee on Education to study how to provide assistance to schools that were not meeting established student achievement goals. The third meeting of the subcommittee,

held on October 8, was a discussion related to the work of the Subcommittee on Assistance to Schools, led by subcommittee co-chairs Sen. Westwood and Rep. Rasche. Discussion items included capacity building and data gathering. It was noted that very few programs are successful alone; success comes in using a variety of programs. Two programs discussed at length were the Highly Skilled Educator program and the Voluntary Partnership Assistance Team model. Other topics discussed were chronic low-performing schools, staffing protocols, and leadership programs. Recommendations received from the field were discussed, with members adding their comments and thoughts.

Subcommittee on Postsecondary Education

The subcommittee met three times during the 2007 Interim. At the August meeting, the subcommittee heard a presentation regarding the final report of the Developmental Education Task Force. The task force conducted a comprehensive review of research and best practices and heard testimony from experts. The task force's six recommendations are

1. update the state standards for college readiness;
2. use performance funding for postsecondary institutions tied to accountability goals;
3. fund infrastructure improvements to improve college developmental education;
4. align K-12 professional development to college readiness standards;
5. align K-12 teacher preparation programs to college readiness standards; and
6. develop early intervention programs for high school students.

At the September meeting, representatives of Project Women and the University of Louisville made a presentation regarding the Louisville Scholar House, a collaboration designed to address the barriers that low-income single mothers frequently encounter in pursuing postsecondary education and employment. In addition, the subcommittee heard a presentation regarding the Endowment Match Program, also known as "Bucks for Brains." The program uses state dollars to leverage private donations to support research at public universities. Since its creation as part of House Bill 1 in 1997, the program has generated a total of \$700 million in public and private investment in research at Kentucky's public universities.

At the October meeting, the Council on Postsecondary Education made a presentation to the subcommittee regarding the capital budget planning process for public postsecondary institutions. The presenters provided a summary of the "2007 Postsecondary Facility Condition Assessment and Space Study" and an overview of the capital planning review process. They identified the five distinct categories of capital priorities used by the council, which are

- capital renewal, maintenance, and infrastructure needs;
- adequacy of current space and related renovation needs;
- new construction and expansion;
- research and economic development; and
- information technology initiatives.

**Report of the 2007
Special Subcommittee on Energy**

**Sen. Robert Stivers II, Co-Chair
Rep. Rick Nelson, Co-Chair**

Sen. Walter Blevins, Jr.	Rep. Dwight D. Butler
Sen. Charlie Borders	Rep. Leslie Combs
Sen. Tom Buford	Rep. Tim Couch
Sen. Denise Harper Angel	Rep. Jim Gooch
Sen. Ernie Harris	Rep. J.R. Gray
Sen. Tom Jensen	Rep. Thomas Kerr
Sen. Vernie McGaha	Rep. Lonnie Napier
Sen. Jerry P. Rhoads	Rep. Fred Nesler
Sen. Katie Stine	Rep. Tanya Pullin
Sen. Johnny Ray Turner	Rep. Tom Riner
Rep. Royce W. Adams	Rep. Brandon D. Smith
Rep. Rocky Adkins	Rep. Brandon Spencer
Rep. Eddie Ballard	Rep. Brent Yonts

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

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Special Subcommittee on Energy

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

Committee Activity

During the 2007 Interim, the Special Subcommittee on Energy held six meetings.

The committee held its first meeting on May 30 in Frankfort. The committee held the public hearing and review of the Low Income Home Energy Assistance Program block grant application for the federal fiscal year 2008. The commissioner of the Department for Facilities and Support Services in the Finance and Administration Cabinet gave a presentation on energy efficiency in state government buildings. Information on efficiency upgrades in both state-owned as well as leased spaces was provided. An architect from Ross Tarrant Architects discussed trends in energy efficient buildings and the Leadership in Energy and Environmental Design program. The executive director of the Governor's Office on Energy Policy reported on progress made in developing a coal-to-liquid industry in Kentucky, pursuant to House Bill 299. The director of the Center for Applied Energy Research (CAER) responded to questions on coal-to-liquids and coal-to-gas technologies.

The committee held its second meeting on June 15 at the Paradise Steam Plant near Drakesboro. The committee was welcomed by Tennessee Valley Authority officials and listened to a presentation by the general manager of fossil fuel supply. Chairman Stivers introduced and gave a brief summary of a legislative proposal to provide tax incentives to attract coal-to-gas and coal-to-liquid facilities to Kentucky. Afterward, the committee toured the newly completed Unit 3 scrubber and the power house.

On August 17, the committee held its third meeting in Frankfort. The members heard from staff of the Kentucky Geological Survey (KGS) about budgetary needs to meet the requirements of stepped-up research on carbon sequestration. The associate director of CAER also presented a case for increased research into carbon capture and sequestration. Finally, the committee heard from the director of the Kentucky Resources Council who applauded the efforts of KGS and CAER and cautioned that continued exploitation of coal must be coupled with a strategy for reducing and ultimately eliminating carbon dioxide emissions.

The committee held its fourth meeting on September 21 in Frankfort. The chief executive officer of Wind Energy Corporation of Elizabethtown briefed the committee on his company's efforts to develop a vertical-axis wind turbine for deployment in lower-

wind areas such as Kentucky. The coordinator of the Kentucky Solar Partnership spoke to the committee on barriers to advancing solar energy. The American Gas Association's director of rates and regulatory affairs made a presentation on the need for adoption of innovative rate mechanisms for the natural gas industry.

The fifth meeting was held October 19 at the Circuit Courthouse in Lexington. Representatives of Kentucky's investor-owned and cooperative electric utilities made a presentation on the current state of the industry, including challenges that the industry faces such as carbon constraints and soaring demand.

The sixth meeting was held in Frankfort at the Capital Plaza Hotel in conjunction with the second annual Kentucky Energy Efficiency Conference on November 16. Members heard presentations from the Public Service Commission, the Edison Electric Institute, the governor-elect, the American Council for an Energy Efficient Economy, and from representatives of gas and electric utilities.

The committee did not take action on any prefiled bills.

**Report of the 2007
Interim Joint Committee on Health and Welfare**

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

Sen. Charlie Borders	Rep. Robert R. Damron
Sen. Tom Buford	Rep. Bob M. DeWeese
Sen. Perry Clark	Rep. David Floyd
Sen. Denise Harper Angel	Rep. Joni L. Jenkins
Sen. Alice Forgy Kerr	Rep. Mary Lou Marzian
Sen. Joey Pendleton	Rep. Reginald Meeks
Sen. Richard "Dick" Roeding	Rep. Darryl T. Owens
Sen. Ernesto Scorsone	Rep. Ruth Ann Palumbo
Sen. Dan Seum	Rep. Brandon Spencer
Sen. Katie Stine	Rep. Kathy W. Stein
Sen. Johnny Ray Turner	Rep. David Watkins
Rep. John A. Arnold, Jr.	Rep. Susan Westrom
Rep. Scott W. Brinkman	Rep. Addia Wuchner
Rep. James R. Comer, Jr.	

LRC Staff: Murray Wood, Barbara Baker, Miriam Fordham, DeeAnn Mansfield,
Ben Payne, Gina Rigsby, and Cindy Smith

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
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. Denise Harper Angel	Rep. David Floyd
Sen. Ernesto Scorsone	Rep. Reginald Meeks
Sen. Dan Seum	Rep. Darryl Owens
Rep. Bob Damron	Rep. David Watkins
Rep. Bob DeWeese	

Sen. Julie Denton, ex officio
Rep. Tom Burch, ex officio

LRC Staff: Miriam Fordham and Marlene Rutherford

Subcommittee on Families and Children

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

Sen. Charlie Borders	Rep. Scott Brinkman
Sen. Tom Buford	Rep. Brandon Spencer
Sen. Joey Pendleton	Rep. Susan Westrom

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. Perry Clark	Rep. James Comer
Sen. Alice Forgy Kerr	Rep. Joni L. Jenkins
Rep. John Arnold	Rep. Addia Wuchner

Rep. Tom Burch, ex officio

LRC Staff: Barbara Baker and Gina Rigsby

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; psychologists and clinical psychologists; optometrists; ophthalmic dispensers; physical therapists.

Committee Activity

During the 2007 Interim, the Interim Joint Committee on Health and Welfare held six meetings. The committee was organized into three subcommittees: Aging, Disabilities, Independent Living, and Long-Term Care; Families and Children; and Women's Health. The committee heard testimony on several prefiled bills at its December meeting.

Major Issues Considered by the Committee

Children and Family Issues

Early Childhood Programs

Boone County Success by 6®. The executive director of Boone County Success by 6® and a representative from the United Way Organization testified that the project aligns existing resources to ensure children are prepared for kindergarten. Funding for the project comes from equal partnerships between the United Way, the fiscal court, the local health department, the public library, and the local cooperative extension services. The project has five focus areas: 1) data collection and analysis; 2) quality early care; 3) oral health; 4) early literacy; and 5) nutrition and physical activity. The deputy commissioner of the Department for Public Health said that approximately three to five counties would be funded the fall of 2007 to develop a program similar to Success by 6®.

Kentucky Early Childhood Initiative. The outgoing director of the Kentucky Early Childhood Initiative and Division of Early Childhood Development testified that the Revenue Forecast Group underestimated the tobacco settlement dollars, and for state fiscal year 2007, there were approximately \$4.5 million additional one-time funds. These funds were used for programs that had funding reduced when tobacco funds decreased. An update was provided on various additional early childhood programs and initiatives.

Kentucky Youth Advocates-Blueprint for Children. Representatives from Kentucky Youth Advocates presented their 2008 legislative agenda that includes increasing dental services for children, expanding eligibility for Kentucky Children's Health Insurance Program and child care assistance, creating incentives for quality child care, expanding all-day kindergarten, creating an Earned Income Tax Credit for working families, and capping the fees of check-cashing lenders.

Child Welfare

Social Worker Safety—Boni Bill Implementation. The commissioner of the Department for Community Based Services stated that between April and October 2007, 120 front-line protection and permanency staff were hired, and the department is proactively addressing upcoming retirements and resignations and looking at greater equity in caseloads. He reported that the department hosted a national safety conference for human services leaders and managers to create a lasting culture of safety. The requirement to provide a state criminal background check prior to protective services investigations and to assess staff safety concerns within one hour after receipt of a request should be operational by the end of 2007. A second request for proposals to procure emergency alert technology for front-line staff was developed in November, and depending on the responses received, the safety alert technology should be operation by the spring of 2008. Requests for construction and renovations of office space for improved security for staff have been made to the Finance and Administration Cabinet. A final report of recommendations by the cabinet's safety workgroup will be submitted by November 15 and will also be part of a 2008 budget and legislative request.

Cabinet officials responded to questions from legislators on various discrepancies in the projected dates for hiring new staff, new locations for family visits, caseloads, and criminal background checks. The commissioner testified that the \$6 million appropriated in Senate Bill 59, the "Boni Bill," would become part of the department's budgetary process during the 2008 Regular Session.

Parent Advocate Program. The regional administrator and a Northern Bluegrass Service Region staff member of Department for Community Based Services provided information on the implementation of the Parent Advocacy Program based on a national model of child welfare reform. Data show that children with families in the Parent Advocacy Program experience one less move in foster care placement than other children and spend 10.8 months versus 18.2 months in out-of-home care.

Blue Ribbon Panel on Adoption. The deputy undersecretary presented the policy recommendations from the panel that seek to build in more accountability and consistency to the department's policy regarding removal of children and termination of parental rights. A draft legislative proposal to increase payment to attorneys representing children and parents in dependency court is included in the recommendations.

Pediatric Forensic Department. Testimony on the University of Louisville's Pediatric Forensic Department was given by the university's director of the new Division

of Forensic Medicine. She stated that the new division has been created to serve as a resource to community physicians, child protection staff, law enforcement, and the judicial system for medical assessment of potential child abuse and neglect. She stated that the university will seek state funding to expand services to the entire state, with the goal of incorporating the Living Forensics Program currently housed in the Justice Cabinet's Medical Examiner's Office into the new pediatric forensic department. She stated that funding would be necessary to make it a statewide program.

The Family Place. The president and a board member of The Family Place presented information about child abuse treatment services. The program, established in 1977, has helped nearly 30,000 children and family members in the community through specialized child care for abused children, long-term mental health treatment for child sexual abuse victims, and court-ordered supervised visits between children and their noncustodial parent. The program is nationally accredited, state licensed, and holds a four-star rating from KIDS NOW Initiative for Early Childhood Development. The presenters asked for funds to meet their budget obligations for the next two years. The 2006 Regular Session appropriated \$200,000 for The Family Place for FY 2007.

Domestic Violence. The executive director and a program administrator of the Kentucky Domestic Violence Association stated that the "Until the Violence Stops: Kentucky" campaign has been selected by V-Day, a global anti-violence movement first held in New York City in 2006, as one of two locations to replicate a media and performance festival focusing on ending violence against women and girls.

Health Care Issues

Oakwood

The committee heard from officials from the Cabinet for Health and Family Services and Bluegrass Regional Mental Health and Mental Retardation Board (Bluegrass MHMR) at several meetings. The secretary of the cabinet, the chief executive officer of Bluegrass MHMR, and a parent of a resident of the Oakwood Intermediate Care Facility for Mental Retardation (ICF/MR) gave an update on the progress at Oakwood. They testified that Bluegrass MHMR has been able to provide strong leadership, establish a single point of accountability, have flexibility to take personnel action with staff, and provide good-quality care for less money. The chief executive officer stated that there have been three Type A citations since Bluegrass MHMR took over management of Oakwood, and two of those are being appealed. There is a 4:1 staffing ratio required and monitored by the federal courts and the U.S. Department of Justice. Certification from the Centers for Medicare and Medicaid to retain Medicaid funding is still pending. The Department of Justice and the Centers for Medicare and Medicaid Services have been kept apprised of Oakwood's progress. The cabinet secretary said that there are 10,500 disabled individuals living with parents who are over age 65 who are not currently receiving services but who will need care in the future.

Cedar Lake Lodge

The president of Cedar Lake Lodge reported that the facility serves more than 200 individuals with mental retardation and offers choice for residential options that include resident homes with 24-hour supervision, apartments with round-the-clock staff support, transitional independent living homes with partial-day staff, supported independent living apartments, in-home support services, and adult day health programs at Cedar Lake Enrichment Center. Cedar Lake Lodge's only increase in bed capacity since 1982 happened in November 2006 when its licensed bed capacity was increased from 76 beds to 87 beds by transferring 11 beds from Oakwood. He reported that the demand for Cedar Lake Lodge's ICF/MR services is high due to the absence of specialized nursing and high-intensity residential care in the Supports for Community Living program. A father of a Cedar Lake Lodge resident stated that he and his wife had to wait 10 years to get their daughter into the facility. He testified that her life has blossomed at Cedar Lake Lodge and they are thankful their daughter is where she can receive 24-hour medical care.

Our Lady of Peace

The president and chief executive officer of Our Lady of Peace Hospital and the president and CEO of Jewish Hospital & St. Mary's Healthcare gave an overview of services offered to patients and the hospital's future plans. Eighty percent of the patients served are children, 95 percent are medically indigent, approximately 50 percent are in state custody, and 90 percent have a history of abuse. Legislators asked about services for adults and seniors and were advised that the psychiatric units in general hospitals are predominately adult units.

The presenters said they need to renovate the Access Center during 2008-2009 at a cost of \$6 million and need approximately \$1.2 million state funds for two additional specialty programs in 2008. Legislators questioned whether the facility wanted a grant or loan to help with capital expenditures. An official from the facility responded that an appropriation of \$7.2 million over the next five years was needed from the General Assembly. In response to another question, the official replied that the state would not have any ownership in the facility if state funds are allocated.

Health Point Family Care

The CEO of HealthPoint Family Care in Covington testified about community health centers (CHC) as America's safety net providers that provide a high quality of care. Studies show that CHCs save the Medicaid program approximately 30 percent in annual spending per recipient due to fewer specialty care referrals, fewer emergency room visits and hospital admissions, and reduced prescription drug costs.

He stated that the medical navigator project is a new two-year project in northern Kentucky designed to reduce the improper use of hospital emergency rooms. Medical navigators will be hired to contact targeted patients to help them establish primary care

medical and dental homes. He also presented legislative suggestions to increase health care cost transparency and to increase cigarette tax rates.

Spinal Cord Injuries and Neurological Rehabilitation

The research director and Owsley B. Frazier Chair in Neurological Rehabilitation at the University of Louisville's Frazier Rehabilitation Institute described the mission of the Kentucky Spinal Cord Research Center as dedicated to developing successful spinal cord repair strategies in the laboratory that can be taken to the clinic and applied to patients in a timely and responsible fashion. Kentucky has received \$44 million in grant funds to support the Spinal Institute's programs. Nine faculty members have received grants totaling \$5.2 million this year, and it is anticipated that this number will continue to grow. The Kentucky Spinal Cord Research Center would not exist without the "Bucks for Brains" program and the Kentucky Spinal Cord Head Injury Trust Fund.

HIV/AIDS

The chair of the HIV/AIDS Planning Advisory Council discussed its annual report and the Department for Public Health's branch request for an appropriation of \$250,000. Federal funding of HIV/AIDS prevention and care depends on the number of reported HIV/AIDS cases, and the Advisory Council recognizes that increased state funding of HIV/AIDS surveillance is imperative to assure appropriate levels of federal funding.

Colon Cancer Screening

The physician director of the Kentucky Cancer Registry and the chair of the Colon Cancer Prevention Project said colon cancer is the second leading cause of death from cancer in Kentucky. With adequate screening, more colon cancer cases are diagnosed at an early stage when they can be treated more successfully. It costs an average of \$30,000 to treat each case of early-stage colon cancer and an average of \$120,000 to treat each case of late-stage colon cancer. There is a consensus among Kentucky Cancer Consortium partners that a statewide screening program for colon cancer is needed. They recommend that the 2008 General Assembly create the Kentucky Colon Cancer Screening Act and appropriate funding for a statewide screening program modeled after the Kentucky Women's Cancer Screening Program.

Mental Health System

A presentation on community mental health centers was given by the executive director of the Kentucky Association of Regional Mental Health and Mental Retardation Programs. He stated there are 14 regional community mental health centers (CMHCs). The CMHC statewide network was established in statute. Community care and support dollars are state general funds allocated to CMHCs to help provide services to clients who have no payer source such as Medicaid, Medicare, Kentucky Children's Health Insurance Program, or private insurance. Without an increase in funding, there will be

increased wait times for initial and follow-up appointments; reductions in locations of service sites; layoffs of staff and more unfilled open staff positions; restricted access to some services; and increased use of group therapy rather than individuals sessions. Individuals will have to spend more days in jail, hospital emergency rooms, institutions, homeless shelters, alternative schools or on school suspensions, or on the streets.

e-Health and Telehealth

The co-chairs of the Kentucky e-Health Network Board testified that the the board has created three entities: the Kentucky e-Health Network Board for policy and oversight; the Kentucky e-Health Infrastructure Authority for research and guidance; and the Kentucky e-Health Corporation for operations. Their goal is to have health information for all Kentuckians available electronically by 2011. The Kentucky e-Health Action Plan, published April 2007, recommends additional funding in the amount of \$17.3 million. The plan is available online at www.ehealth.ky.gov/documents/.

The director of the University of Kentucky's Telecare program and the co-chairs of the Kentucky Telehealth board provided an update on the availability of telehealth services.

Prescription Drug Safety

A representative of the pharmaceutical manufacturers' industry stated that the federal government passed the Prescription Drug Manufacturing Act, and the final regulations were issued in 1999, but the provisions about requiring a pedigree, which is similar to a written chain of custody, were not finalized until 2006. Currently, the federal government is enjoined from regulating the movement of prescription drugs because of a lawsuit, but about 20 states have passed legislation requiring pedigrees to ensure the safety of prescription drugs from the manufacturer to the consumer.

Public Health

Representatives of the Office of Inspector General discussion the inspection of nursing facilities and state-operated institutions. They described their processes and said that because of the low number of investigators on staff, they are focusing on facilities and institutions that have the worst records for citations.

Medicaid

KyHealth Choices. The secretary of the Cabinet for Health and Family Services and the commissioner of the Department for Medicaid Services testified that KyHealth Choices changed from an 1115 statewide Medicaid waiver to a state plan amendment to give the cabinet more flexibility with program design. The cabinet envisioned that KyHealth Choices would improve the health status of Kentuckians enrolled in the program; ensure people receive the right care, in the right setting, at the right time; ensure the solvency of Kentucky Medicaid Program for future generations of Kentuckians; and

transform Kentucky Medicaid into a 21st century health care system with technology, care management, and benefit design. The commissioner stated \$600 million of the \$4.8 billion Medicaid budget is spent on long-term care annually.

The cabinet secretary said that the Medicaid budget was balanced without reducing enrollment or services or harming access to care. Kentucky has significantly reduced the number of uninsured and increased employer-sponsored health insurance in the last year, according to the Kaiser Family Foundation. He testified that a major part of the cost containment has come from the new and increased co-payment requirements.

The commissioner of the Department for Medicaid Services testified that reimbursement rates for dental services for children have been increased by 33 percent by restructuring reimbursement rates to match Passport Health Plan rates and redirecting the savings to pay for more services.

Legislators expressed some concern about the Department for Medicaid Services' filing of emergency administrative regulations after the cut-off date for printing the Administrative Register because the new regulations are in effect for about one month before the public knows about them. Department officials said they have discussed the impact of the new regulations with Medicaid providers.

Consumer Directed Option Program. The Consumer Directed Option (CDO) program provides Medicaid consumers with flexibility to choose and control their nonmedical services such as personal care, homemaker services, and respite care to stay in their homes and communities. The Area Agencies on Aging administer the CDO program by serving as support brokers and fiscal intermediaries. The secretary said the CDO has saved the state money and individuals are receiving more services.

Advocates for Restoring Medicaid Services also testified about their concerns with implementation of the CDO and Self-Directed Option (SDO) programs. Department representatives testified that a draft proposal for SDO services was sent to the federal agency that includes transportation and employment opportunities. The cabinet secretary said that the number of SDO participants was limited to 200 because this program's scope of flexibility is broader than the CDO. The draft state plan amendment has been submitted to the Centers for Medicare and Medicaid Services, and the target implementation date is October 2007. The director for the Center for Accessible Living said that the Real Choices Grant developed a postsecondary education program that trained and certified direct care givers through the Kentucky Community and Technical College System, but because of the lack of enrollment, the program was discontinued.

Money Follows the Person Grant. In May 2007, Kentucky Medicaid was awarded a \$50 million five-year grant from the Centers for Medicare and Medicaid Services for the Money Follows the Person rebalancing initiative to eliminate barriers that prevent or restrict the use of Medicaid funds for services to help individuals in institutions to return to community settings of their choice. The grant will allow funding for services not traditionally covered by Medicaid, such as transportation, medical alerts,

home adaptations, housing assistance, and technology. The goal is to transition 47 individuals by May 1, 2008, and 431 more individuals over the next five years. Nine employees will be hired to implement and maintain the program, and a monitoring plan will be developed to ensure the health, safety, and welfare of the participants.

Upon questioning whether facility beds will be filled after an individual moves out to the community, the secretary said that most of the beds will still be needed to meet the needs of Kentucky's increasing senior population that tends to be more disabled. He also said that beds opened by transitions would stay in the same geographic area.

Community Living. Testimony on living in the community was given by a mother who said it is scary to know that if anything happens to her and her husband, there is not a support circle in place at this time for her son. A former resident of Oakwood said she had lived at Central State Hospital and in other institutions since she was 9 years old until she moved into a community setting in 1999. She wanted everyone to know that people with disabilities can live and work in the community, instead of being told what they cannot do.

Representatives from the Advocates for Restoring Medicaid Services said that according to the 2007 Jim Worth Financial Figures for Kentucky Survey, the average cost of private nursing home care per day is \$180, or \$65,700 per year. The cost of institutionalization went from \$55,000 to \$65,000 over the past two years, and the cost of living in the community with services is between \$14,000 and \$25,000. The CMS-64 data from the Office of State Agency Financial Management reported on July 7, 2006, that Kentucky is spending 72 percent of total Medicaid dollars on long-term care institutional services and 28 percent on community-based services. They stated that rebalancing is about choice, not closing institutions, and there should be an equitable redistribution of Medicaid long-term care dollars. There are approximately 16,000 individuals enrolled in four Medicaid waiver programs.

Referred Block Grant Applications

Pursuant to KRS 45.353, the committee held legislative hearings on four block grant applications: 2008 Community Mental Health, 2008-2009 Community Services and Community Plan, 2008 Title V Maternal and Child Health, and 2008 Substance Abuse Prevention and Treatment.

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee reviewed 28 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: 2007-566, relating to the reorganization and transferring of funds and staff from the Department for Public Health to the Governor's Office of Wellness and Physical Activity.

Subcommittee Activity

Aging, Disabilities, Independent Living, and Long-Term Care Subcommittee

The Aging, Disabilities, Independent Living, and Long-Term Care Subcommittee met four times during the 2007 Interim.

Aging Issues

A clinical pharmacy specialist in geriatrics with the Lexington Veterans Affairs Medical Center addressed the role of pharmacists in senior health care. Seniors 65 years of age and older consume 30 percent to 40 percent of all prescription and over-the-counter medications and spend approximately \$43 billion annually on prescriptions. Senior care pharmacy specialists have specialized knowledge in geriatrics and can recognize and address the unique health care needs of seniors.

A representative of the Department for Aging and Independent Living provided an update on 2006 Senate Joint Resolution 6 that requires an assessment of services and resources to address the needs of persons with Alzheimer's Disease. The final report will be submitted to the governor and the legislature on January 3, 2008.

The commissioner of the Department for Aging and Independent Living provided an overview of the Kentucky Resource Market, a one-stop shop for information on aging and disability resources. The resource market will provide a single, coordinated system of information and access statewide through the 15 Aging and Disability Resource Markets.

A representative from the University of Kentucky reported on the second phase of the Kentucky Elder Readiness Initiative. Kentuckians statewide were surveyed about topics such as attitudes and plans for retirement, housing, community involvement, finances, and future directions. Regional meetings were held in the area development districts to discuss the survey results.

The commissioner of the Department for Aging and Independent Living reported that Kentucky was one of seven states awarded a Legal Assistance Systems Grant by the Administration on Aging. The grant is designed to help states bolster their legal service systems for seniors and disabled persons who need legal services.

Disabilities

Representatives from the Department for Aging and Independent Living gave an overview of the Consumer Directed Option, the Self-Directed Option, and Money Follows the Person programs. The CDO program for home- and community-based services had about 800 enrollees. An application was submitted to the Centers for Medicare and Medicaid Services (CMS) to initiate a SDO with the goal of serving of 200 individuals in a pilot program. Following the submission of a required protocol to CMS, individuals who are in the Home and Community Based Services (HCB) waiver or the Supports for Community Living (SCL) waiver who want to participate in the Money Follows the Person program will begin to be transitioned from facilities or institutions beginning January 1, 2008. The goal is to transition 49 HCB and 21 SCL individuals during the first year of the project and to transition 431 individuals over the five-year period.

Representatives from the Kentucky Division of Emergency Management and the Department for Public Health reported on emergency management for vulnerable populations. The division has established 14 emergency management regions, and each region has an area manager who works with local organizations and the county managers. The Department for Public Health has established a special needs working group, and a statewide forum was held to discuss the issues that surround special needs populations during a disaster.

A representative from the Cabinet for Health and Family Services reported on the launch of a new program called Medicaid Works, which is the Medicaid “buy-in” program that allows Medicaid recipients with disabilities to work and maintain their Medicaid eligibility. Under the new program, individuals with disabilities who work and whose income is less than or equal to 250 percent of the federal poverty level can purchase Medicaid coverage by paying a monthly premium.

A representative from the Department for Public Health discussed oral health for the elderly and disabled. Poor oral health can put the elderly at increased risk for serious systemic health problems. Individuals with disabilities may not be able to practice good oral hygiene due to limitations associated with their disabilities.

Long-term Care

The commissioner of the Department for Aging and Independent Living reported on the Excellence in Nursing Homes Initiative. A number of steps were taken to restructure the initiative, including renaming it “Excellence in Long-Term Care.”

Representatives from the department provided an update on the quality dementia care grant and the dementia care pilot project. Under the quality dementia care grant project, families will be able to use the grant funds to self-direct services with the goal of keeping Alzheimer’s patients in the home longer.

Under the dementia care pilot project, Kentucky and three other states are participating in a research study to examine the effectiveness of increased staff training on residents' quality of life in long-term care facilities. The data from Kentucky will be compiled along with the other states in a research report, and Kentucky-specific information will be available. Data collection will end in April 2008, and a full report should be available in January 2009.

The commissioner of the Department for Aging and Independent Living reported on the Real Choices Systems Change grant and Kentucky's state planning grant. The Real Choices Systems Change grant will assist the state in assessing its long-term living system using a state profile tool. Kentucky is in the third and final year of its state planning grant to upgrade the state's regional and state planning processes into a performance-based system.

A representative from the Cabinet for Health and Family Services and a representative from the long-term care ombudsman program discussed nursing home inspections. The long-term care ombudsmen stressed the need for continued attention to the quality of care in nursing home facilities.

Subcommittee on Families and Children

The Subcommittee on Families and Children met four times during the 2007 Interim.

Child Health

A representative of the Department of Public Health testified about the First Steps Program, Part C of the federal Individuals with Disabilities Education Act that provides early intervention services for infants and toddlers with disabilities and their families. Since 2003, the program has served more than 11,000 children per year; however, the department indicated that the goal should be about 15,000 children served and that not all children with disabilities in Kentucky are being reached.

The Kentucky Children's Health Insurance Program, KCHIP, provides services to children below 200 percent of the federal poverty rate and has grown from serving 23,000 children in 1998 to 65,000 children in 2006. Kentucky was allocated \$50 million for the first five years of operation. Federal reauthorization for the State Children's Health Insurance Program has not occurred because of differences between the House and Senate bills. The House version has unlimited eligibility, and the Senate's version is capped at 300 percent of poverty. The House version adds \$50 billion to the base, and the Senate version adds \$35 billion. The cabinet has not made a decision on the privatization of KCHIP as part of the Medicaid changes in KyHealth Choices.

Obesity and Physical Activity

The subcommittee addressed the topic of obesity and physical activity over several meetings. Representatives of the Department for Public Health advised that in Kentucky in 2005, 63 percent of adults were overweight or obese and 18 percent of 2- to 4-year-olds were overweight. The annual medical costs for an obese person are \$732 higher than for a person of normal weight. If 10 percent of adults in Kentucky began a regular walking program, \$79 million could be saved in costs related to heart disease.

Several initiatives to address the problem of obesity and physical inactivity were reviewed, including the Governor's Office of Wellness and Physical Activity, the Get Healthy Kentucky Schools Challenge, and the Mayor's Healthy Hometown Movement by the Louisville Metro Department of Public Health & Wellness. Lexington-Fayette Urban County Government representatives testified that walk-and-bike friendly cities are in the top 10 priorities for home buyers and CEOs choosing locations for their companies. The Safe Routes to School program develops safe and appealing routes to enable and encourage children to walk and bicycle to school. The Complete Streets program helps make roads usable for pedestrians, cyclists, wheelchair users, and automobile drivers.

The importance of physical activity in schools was also discussed because schools are where children spend large amounts of time, are ideal settings to systematically address the issue, provide opportunities to engage in and reinforce healthy behaviors, and schools have a vested interest in a healthy school population.

Child Welfare

The subcommittee heard about program and policy changes that the Department for Community Based Services is undertaking to improve consistency for policies throughout the nine regions. Some of the changes made include reducing the number of regions from 16 to 9, implementing an anonymous complaint system for staff, adding a case review process and analysis, increasing the focus on preventative services, continuing the Blue Ribbon Panel meetings to address transparency, and holding a statewide conference on racial disproportion in the child welfare system.

Improvements in the cabinet's ombudsman communication and the implementation of 2007 House Joint Resolution 137 were presented. The office holds monthly meetings with the Department for Community Based Services to review unresolved complaints.

Representatives from the Department for Community Based Services gave an overview of the 2007 Child Fatality and Near Fatality Annual Report on substantiated child abuse and neglect cases with prior cabinet involvement. The major risk factors for these cases are substance abuse, prior criminal history, and previous domestic violence. One prevention program that has been initiated is with the University of Louisville to

automatically conduct a child abuse and neglect review for children under age 4 who check into the hospital with certain trunk, ear, or head injuries.

Family Support

The number of Kentucky Transitional Assistance Program (K-TAP) cases continues to decline. The number of families receiving K-TAP declined from 30,000 in October 2005 to about 24,000 in October 2007. One new pilot program with the Lake Cumberland Community Action Agency provides post-K-TAP services to help with job retention, advancement, crisis intervention, and financial counseling. The cabinet has contracted with the University of Louisville to conduct an statewide program evaluation.

The Child Care Assistance Program provides subsidies for the cost of child care for low-income working parents and K-TAP recipients and serves more than 43,000 children annually. There have also been efforts to increase child care quality, STARS Level 3 and 4 child care centers, and homes by providing increased incentives to attract new centers and homes into the STARS program and by rewarding Level 3 and 4 centers, and homes that maintain STARS rating.

Women's Health Subcommittee

The Women's Health Subcommittee met three times during the 2007 Interim.

Domestic Violence

The executive director of the Bluegrass Domestic Violence Program reported that there are inconsistencies in the implementation of state policies regarding the removal of children from parents because of child abuse or neglect. Increasing perpetrator accountability, problems associated with termination of both parents' parental rights, the safety of children during visitations, the relationship between domestic violence and substance abuse, and the need for education for perpetrators were also discussed. Approximately \$2.2 million in additional state funds for each year of the upcoming biennium would be necessary to provide services and increase employees' salaries and benefits. She stressed the importance of funding that would support intensive services to children, as well as serving the victims of domestic violence. There was a brief discussion on legislation dealing with dating violence that will be prefiled for the 2008 Regular Session.

Women's Health Registry

The director of the Center for the Advancement of Women's Health provided testimony on the Women's Health Registry. The registry is an electronic database designed to collect self-reported demographic and health information about Kentucky women. Nearly half of the participants in the survey thus far indicated they have been exposed to violence.

Women's Cancer Screening Program

The University of Kentucky's chair for the Department of Epidemiology in the College of Public Health and senior director for Cancer Surveillance at the Markey Cancer Center discussed the breast cancer screening program. Kentucky decreased the number of women with late-stage disease by 5 percent between 1991 and 1996 and increased the number of cases identified in the early stage of disease. That means that 446 women were diagnosed in the early stage of the disease after 1991 who otherwise would have had a diagnosis of late-stage breast cancer. It was estimated that these cases resulted in a savings of nearly \$5 million for the Kentucky Medicaid program. The number of screenings increased between 1991 and 1996. However, in 2006, Kentucky fell below the national rate of screening women over age 50 within the previous two years. The importance of maintaining vigilance with screenings was stressed. The incidence of breast cancer is declining, which in part may be explained by a decrease in screenings.

The government relations director of the American Cancer Society provided an overview of services that include research, education, and advocacy. She estimated that in 2007, approximately 22,850 Kentuckians will be newly diagnosed with cancer. Of those, 2,590 will be breast cancer and 760 will be cervical or other uterine cancers. She recommended an increase in funding for the Kentucky Women's Cancer Screening Program to increase the number of screenings, public awareness and education, and clinical services.

Women's Health Initiatives

The subcommittee also heard testimony on hormone replacement therapy from the director of the Division of Reproductive Endocrinology with the University of Kentucky College of Medicine. The director of the Division of Adult and Child Health in the Department for Public Health at the Cabinet for Health and Family Services provided an update on preventive health care for women and the regionalization of prenatal care by levels of neonatal care.

**Report of the 2007
Interim Joint Committee on Judiciary**

**Sen. Robert Stivers, Co-Chair
Rep. Kathy Stein, Co-Chair**

Sen. Perry Clark	Rep. Joseph M. Fischer
Sen. Carroll Gibson	Rep. Jeff Hoover
Sen. Ray S. Jones II	Rep. Stan Lee
Sen. Gerald A. Neal	Rep. Darryl T. Owens
Sen. Jerry P. Rhoads	Rep. Frank Rasche
Sen. Richard “Dick” Roeding	Rep. Steven Rudy
Sen. Dan Seum	Rep. Arnold Simpson
Sen. Katie Stine	Rep. John Vincent
Sen. Jack Westwood	Rep. Robin L. Webb
Sen. David L. Williams	Rep. Rob Wilkey
Rep. Kevin D. Bratcher	Rep. Brent Yonts
Rep. Jesse Crenshaw	

LRC Staff: Norman Lawson, Jonathan Grate, Raymond DeBolt, Joanna Decker,
Ashley Smalley, and Carolyn Gaines

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
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

The first meeting of the 2007 Interim Joint Committee on Judiciary was held on September 21. The meeting consisted of a tour of state correctional facilities in the LaGrange area, including the Kentucky State Reformatory, Luther Luckett, and Roederer facilities, followed by a tour of and a short committee meeting at the Kentucky Correctional Institution for Women at Pee Wee Valley.

During the tour of the facilities, wardens and staff of the facilities explained the mission of the particular facility; the programs offered at the facility; the physical condition of the facility; the need for replacing aging facilities with new facilities that can provide more modern and effective program and would be less expensive to operate; and the need to expand educational, substance abuse, prison industries, and other programs to be able to better prepare inmates for return to society and reduce recidivism.

Officials spoke of the need to enact the Prison Industries Enhancement legislation that has been proposed in two past sessions. This legislation is required by federal law if the state is to sell prison-made goods in interstate or international commerce or is to permit inmates to work on private-employer jobs within the prison walls and then have the products or other items on which the inmates worked sold in ordinary commerce.

The warden of the Kentucky Correctional Institution for Women welcomed the committee to the facility. Committee members asked about increase in the population of women in prison. The warden responded that in 1984, there were 100 inmates, but as of 2007, there are 700 at her institution, with an even larger number in other institutions and halfway houses. Substance abuse and controlled substances offenses were cited as a primary causes for the increase in inmates. The warden stated that the original buildings at the facility were built in 1938 and are in need of replacement with a more modern facility.

Discussion turned to the number of pregnant women who were incarcerated in jails and at state facilities and what happened to the children upon birth. The warden and the commissioner of corrections responded that pregnancy testing kits have been distributed to each local jail, and that if a pregnant woman was in a local jail, she would be transferred to the department for prenatal care at the same level provided for pregnant inmates at the institution. The warden explained that counseling was utilized along with the prenatal care program. The actual birth is at a local hospital, after which the woman is allowed a short bonding period with the child. Following the bonding period, the child would be sent to a Cabinet for Health and Family Services-approved relative, other caretaker, or institution such as the Galilean Children's Home in Liberty. Several members asked that the department explore improving and extending the bonding period between mother and child following the birth of the child.

The second meeting of the committee was held on October 19 at the Robert Stephens Circuit Court Building in Lexington. The first speaker was from the Kentucky State Police who testified in favor of three prefiled bills that would amend the driving under the influence (DUI) statute, KRS 189A.010, to provide a "per se" standard for drugs in driving under the influence cases. Under the proposals, if a person had used an illegal controlled substance, it would be presumed that a person is under the influence of drugs in a DUI case. If the person was using a legally prescribed drug within therapeutic limits, that would be a defense at trial to a charge of driving under the influence. The bills would also reduce the alcohol concentration limit in aggravated DUI cases from 0.18 to 0.15 in order to reduce accidents and secure additional federal funds. The Kentucky State Police cited accident statistics, drug use statistics, and case outcomes in support of the legislation. The speaker further indicated that under the present statute, the Commonwealth must prove drug use plus the impairment of the driver through using the drug. The speaker indicated that defense attorneys are frequently successful in having cases dismissed because there are insufficient experts available to testify that the use of the particular drug at the level found in the body would cause impairment, thus a per se standard was warranted.

The next speaker was from Kentucky Vehicle Enforcement who explained a newly implemented program in his department to train officers as Drug Recognition Experts. Under this program, officers undergo specific training on drugs and their effects, advanced testing procedures involving blood pressure testing, taking the pulse, pupil reaction tests in darkness and bright light, and other tests. The speaker indicated that the program has resulted in increased convictions and is now being used by other law enforcement agencies in the state.

The Woodford and Fayette county attorneys spoke about the need for the legislation to reduce DUI deaths and injuries, the need to avoid case dismissals and suppression of drug evidence, and the unavailability of expert witnesses who could testify that a particular level of a particular drug would result in impairment. The county attorneys indicated that the current legislation is frequently unenforceable. They observed that frequently, the only evidence available is the blood test due to lack of an independent

officer evaluation of impairment because the defendant was injured and taken to the hospital without field observation or testing.

Representatives of the Kentucky Association of Defense Lawyers responded that they supported the increased use of expert testimony in drug driving cases and the improvement of the ability of the Kentucky State Police Laboratory to do testing and provide witnesses capable of speaking of the relationship of drug use to impairment in specific cases. The defense lawyers, however, questioned the need for per se legislation, which they equated with providing no opportunity for the jury to determine impairment, and guilt based on evidence presented. They said this created a situation where any drug use resulted in automatic guilt. Citing a National Highway Transportation Safety Administration study, the defense lawyers also questioned whether there was any adequate research or test that could determine which level of a drug within the body would result in impairment. A retired supervisor of the toxicology section of the Kentucky State Police Laboratory stated that there is no current evidence or valid test linking specific amounts of a drug in the blood to impairment. The defense lawyers also observed that drunk driving law is not a minor offense but one that results in job loss, loss of income, family breakup and, other serious consequences not only for the offender but for the offender's family.

A representative of the Department for Public Advocacy indicated that several problems exist in the legislative proposals including the fact that drugs may remain in the body for 30 days or more and may not cause impairment even though they may still be present in trace amounts. There is no identifiable standard. The defense that a person had a valid prescription is ineffective because it must be used at trial and cannot be used in a pretrial setting. There is no current evidence identifying a therapeutic level of a legal drug and correlating that level of drug with impairment negating the effectiveness of the defense. The department's representative also indicated that, under the proposals, more persons would be charge with murder in drug driving deaths, which would require the prosecution and the defense to make increased use of costly expert witnesses who may not be available in the state.

A committee member questioned the deletion of the requirement that the defendant be allowed to contact a lawyer during DUI testing. The department's representative stated that it should be reinstated and that the instructions relating to the effect of refusing a DUI test should be given to the defendant in written and oral form to avoid confusion about the consequences of refusing testing.

The third meeting of the committee was held at Union College in Barbourville on December 7. The attorney general-elect spoke about his initiatives relating to drug enforcement, controlling the inflow of drugs from interstate pharmacies, increasing the number of investigators assigned to drug enforcement, cyberstalking, cyberthreatening, and the creation of a new coordinated cybercrime initiative. He also spoke about the need to more adequately fund the office, which had not received an appropriation increase during the previous two budgets, and the need for additional prosecutors, new computers for prosecutors, and reorganization of the office to provide a more efficient operation.

Several legislators had questions about expanding the Kentucky All Schedule Prescription Electronic Reporting system to other states and sharing the information among the states to prevent doctor shopping and to better track prescriptions. The attorney general-elect indicated that he would work with other attorney's general through the National Association of Attorneys General to deal with his drug initiatives, to identify theft remedies, to control information collected by data collection agencies, and to verify children using the Internet. Asked about initiatives relating to illegal aliens, he indicated that this was basically a federal problem and required a federal solution with state initiatives being limited.

Next, the commissioner of corrections gave a report on the initiatives created through 07 RS HB 191. The commissioner indicated that the use of the Kentucky Corrections Health Services network, which is funded by the state, has saved the counties 35 percent on secondary medical care and reduced the per-inmate cost of the program coverage to \$5.75 per month. The commissioner further reported that the pharmaceutical discount a jail can realize through the pharmaceutical program authorized in the bill is 40 percent off retail; that the catastrophic medical expense program of the bill has saved 60.55 percent on catastrophic medical billings to the state; and that the program is provided to counties at no expense with the state providing the full cost of medical care and costs of incarceration. One added benefit, cited by the commissioner, was that pregnant women in county jails were being transferred to the state for prenatal medical care and counseling thus saving cost and providing a better chance for the newborn. The commissioner further indicated that prison population is rising due to large numbers of Class D felons with drug problems.

The next speakers represented the Kentucky County Judge/Executive Association and the Kentucky Jailers' Association. They spoke of the five-time increase in the number of prisoners in local jails; the 212 percent increase in the cost of living; and the failure to increase the jail bed allotment since 1983, with a 10 percent decrease in funding several years ago compounding the problem. The speakers stated that jails are now the number one financial problem that counties face taking 50 percent to 80 percent of the county budget, which results in counties curtailing other necessary services and passing insurance taxes and occupational taxes in an effort to stem the deficits. The speakers indicated that the total jail deficit is \$128.5 million and suggested an increase in the bed allotment by \$14.8 million as a partial solution. The speakers also indicated that the county judges/executive and jailers have agreed that the state should not take over county jails, that there should be a certificate of need process for building new jails, that no jail be built unless it has at least 300 beds, that all jails be built to state-supplied plans, and that a bill will be proposed that includes these features.

The final speaker was from the Justice and Public Safety Cabinet who spoke about legislation from pervious sessions that would be introduced relating to prison industries, exempting physical security plans and surveillance tapes at juvenile facilities from public disclosure, pretrial diversion for drug offenders, and public defender and prosecutor loan forgiveness. New proposals would include revoking commercial drivers licenses for drug offenses, prohibiting sex offense victims from being required to take a

polygraph examination, increasing the salary of the public advocate to that of a Court of Appeals judge, and requiring the collection of DNA from defendants in every criminal case.

**Report of the 2007
Interim Joint Committee on Labor and Industry**

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

Sen. Julian M. Carroll	Rep. Bill Farmer
Sen. Julie Denton	Rep. Tim Firkins
Sen. Brett Guthrie	Rep. Richard Henderson
Sen. Denise Harper Angel	Rep. Charlie Hoffman
Sen. Ray S. Jones II	Rep. Dennis Horlander
Sen. Jerry P. Rhoads	Rep. Joni L. Jenkins
Sen. Richie Sanders, Jr.	Rep. Thomas Kerr
Sen. Katie Stine	Rep. Adam Koenig
Sen. Gary Tapp	Rep. Charles Miller
Sen. Jack Westwood	Rep. Russ Mobley
Sen. Ken Winters	Rep. Rick G. Nelson
Rep. John A. Arnold, Jr.	Rep. Tom Riner
Rep. Myron Dossett	Rep. Jim Stewart III
Rep. C.B. Embry, Jr.	Rep. Brent Yonts

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

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee on Labor and Industry

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

Committee Activity

The committee held two meetings during the 2007 Interim. The first meeting was held on September 11 at Kentucky Dam Village in conjunction with the 30th annual Kentucky Labor-Management Conference.

Committee members were provided updates by the chairman on several issues that occurred in the previous months. He informed the members that the National Council on Compensation Insurance, a national ratemaking body for workers' compensation insurance, had recommended an average rate decrease of 6.1 percent for Kentucky employers. Kentucky Employers' Mutual Insurance Authority, the state-created workers' compensation insurance carrier, has also filed for a rate decrease. The chair noted that the workers' compensation administrative regulations relating to medical issues have been filed and will be considered during the next few months. Additionally, he reported that the Workers' Compensation Funding Commission is in the process of conducting an actuarial study on the Special Fund for the purpose of determining employer assessment rates for 2008. Relating to the AIK situation, he reported that the liquidation and assessment process is progressing satisfactorily. He added that no significant issues have arisen over the increase in the state minimum wage law enacted in the 2007 Regular Session or the increase in the federal minimum wage that became effective on July 24.

The executive director of the Office of Workplace Standards informed members of a scam involving labor law posters. The Kentucky attorney general has recently issued an alert regarding this scam. Kentucky employers are being contacted by representatives of a company that sells labor law posters. The company's address is similar to that of the Department of Labor, which is causing confusion among employers. The executive director said the labor law posters can be obtained by employers at no cost by requesting them from the Department of Labor, or they can be obtained from the department's Web site.

The commissioner for the Kentucky Department of Labor reported on the department's initiatives and activities to date in 2007. The commissioner's report focused on initiatives relating to occupational safety and health. The commissioner stated that the issue was a major function of the department. Other initiatives included a continued promotion of voluntary compliance partnerships to reduce workplace accidents; a successful effort to increase attendance and interest in the annual Governor's Safety and

Health Conference; new administrative regulations relating to residential fall protection that has resulted in a notable decrease in construction fatalities; revised report requirements that have revealed significantly higher incidences of amputation, hospitalization, and imminent danger situations than in the past, and that have assisted the department in targeting industries for inspections that are experiencing these types of accidents; and the first compliance safety partnership agreement that was signed in May with Ford Motor Company and that includes the UAW and the Kentucky Occupational Safety and Health (OSH) program.

The commissioner also reported that an experienced trainer was added to the staff of the Office of Labor Management Relations and Mediations to provide training at the request of employers on issues such as conflict resolution and improved communication. The Division of Employment Standards, Apprenticeship and Training in the Office of Workplace Standards registered Kentucky's first nurse aid apprenticeship program. The division is implementing a new prevailing wage outreach program for public authorities and contractor groups in an effort to prevent prevailing wage violations. The Division of Workers' Compensation Funds is engaged in legal action against manufacturers of ineffective dust masks worn by Kentucky coal miners. The Office of Workers' Claims is aggressively enforcing the statutory requirement that employers obtain workers' compensation coverage, which has resulted in quadruple the number of penalties against noncomplying employers, and has begun auditing self-insured employers' reserving practices to ensure payment of workers' compensation benefits in the event of insolvency. The department has hired a Hispanic employee to assist the department in reaching out to the Hispanic workforce and a Hispanic OSH compliance officer.

The second meeting of the Interim was held in conjunction with the Interim Joint Committee on Economic Development and Tourism on October 18 at Keeneland in Lexington. The president and chief executive office of Keeneland welcomed the members to the racing facility. He briefly shared information regarding the impact that Keeneland has on the state economy and tourism.

A presentation on the Healthway Initiatives Program was given to the committees by a Fayette County District Council member. A movement has begun in Lexington to promote healthier people, a healthier environment, and a healthier economy through a Greenways/HealthWay Trail System. He indicated that trails are being created locally but not statewide.

The councilman said the model of 21st century economic development is to build communities that are attractive to knowledge-based, primarily young professionals. Ohio, Virginia, and Minnesota have ideal trail systems. He said Kentucky is 20 years behind on developing a trail system, but this could be reversed in five years. He indicated that a significant savings in health care costs could be realized if Kentuckians just walked more. Lexington has created a replicable model that can be used across the state, and several counties have shown an interest in this model.

The commissioner for the Federal Communications Commission made a brief statement to the committees. The commissioner stressed the importance of providing broadband services to facilitate economic development in the state. She said ConnectKentucky has become a nationwide model and indicated that Kentucky is on its way to reaching the 98 percent connectivity goal. She added that broadband services are essential to education. The Universal Service Program is important for states with rural areas like Kentucky so they are not left behind.

The commissioner reported that the transition from analog to digital signal will occur February 18, 2009. She said the National Association of Broadcasters will contact all states to ensure every American has television access by February 18, 2008. All questions regarding the transition can be answered at www.dtv.gov.

**Report of the 2007
Interim Joint Committee on Licensing and Occupations**

**Sen. Gary Tapp, Co-Chair
Rep. Joni Jenkins, Co-Chair**

Sen. Tom Buford	Rep. Ron Crimm
Sen. Julian M. Carroll	Rep. Jon Draud
Sen. Perry Clark	Rep. Tim Firkins
Sen. Julie Denton	Rep. Dennis Horlander
Sen. Carroll Gibson	Rep. Dennis Keene
Sen. Denise Harper Angel	Rep. Reginald K. Meeks
Sen. Ray S. Jones II	Rep. Charles Miller
Sen. Robert J. "Bob" Leeper	Rep. Tim Moore
Sen. Daniel Mongiardo	Rep. David Osborne
Sen. Ernesto Scorsone	Rep. Ruth Ann Palumbo
Sen. Dan Seum	Rep. Carl Rollins II
Sen. Robert Stivers II	Rep. Sal Santoro
Sen. Damon Thayer	Rep. Ron Weston
Rep. Tom Burch	Rep. Susan Westrom
Rep. Larry Clark	

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

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
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

The Interim Joint Committee on Licensing and Occupations met five times during the 2007 Interim.

The first meeting was held at the Home Builders Association of Northern Kentucky headquarters where association representatives informed committee members of the results of a five-year study on the economic impact the building industry had in five northern Kentucky counties. The study showed that after 20 years, new home construction that costs \$310 million will generate \$343 million in revenue. Additionally, the study showed that new construction generates new jobs and local income from property taxes.

The second item on the agenda was a report from a member of the Sales Integrity Task Force authorized by House Bill 388, relating to the sale of horses, in the 2007 Regular Session. The task force member referred committee members to a written report from the task force moderator that was included in the members' folders. The task force was divided into three separate committees to address agent licensing, ownership disclosure in sales, and disclosure of medications used. The report indicated that the members of the task force want to reach a consensus with specific enforceable changes that would attract new buyers to the horse industry. The committee members' comments focused on the importance of the horse industry policing itself as opposed to government regulation and the need for open task force meetings.

Third on the agenda was an update on the home inspection licensing program. A representative of the Office of Housing, Buildings and Construction reported that the board has approved two national examinations for licensing home inspectors; 10 pre-licensing providers, two of which are from in state; and six continuing education providers offering more than 100 approved courses. The representative noted that thus far, 367 home inspectors have been licensed and that in 2008, the licenses will be renewed biennially. Legislative members commented on the advisability of offering home inspector training through the Kentucky Community and Technical College System and on a process to address a home inspector's ethical violations.

The fourth item on the agenda was an update on small farm winery legislation enacted in the 2006 Regular Session, Senate Bill 82. The legislation was enacted in response to the U.S. Supreme Court Case *Granholm v. Heald*, which required that states not show favorable treatment to in-state wineries as compared to out-of-state wineries. Changes in SB 82 permit small farm wineries that produce 50,000 gallons or less of wine, regardless of their location, to obtain Kentucky licenses and permit out-of-state wineries to ship up to two cases of wine into Kentucky if the wine is purchased in person at the out-of-state winery. The executive director of the Office of Alcoholic Beverage Control reported that shortly after the *Granholm* decision, Huber Winery filed a case questioning the constitutionality of Kentucky's laws. The case is on appeal in the U.S. Sixth Circuit Court of Appeals. The Huber winery case upheld the changes in Kentucky's small farm winery laws, except for the requirement that wines shipped from out of state be purchased in person. The case found that the in-person purchase requirements placed an unfair economic burden on out-of-state wineries. The executive director of the Office of Alcoholic Beverage Control said that pending the decision of the Court of Appeals, the office will not enforce its proscription on out-of-state shipments if the small farm winery is licensed. Moreover, the executive director reported that policing out-of-state shipments will be difficult and may result in the loss of tax revenue since taxes on wine are assessed at the wholesale level. Thus far, two licenses have been issued to two out-of-state wineries, and six out-of-state wineries have applications pending. Members questioned whether the cap on the number of gallons produced by small wineries was consistent with other states' limits and whether the production of grapes had an effect on the loss of revenue from the growing of tobacco.

Representatives from the Department of Agriculture and the Department of Tourism discussed their departments' efforts in implementing SB 82. The representative of the Department of Agriculture reported that \$100,000 and \$75,000 were available to small farm wineries for cost-sharing and distribution programs. To date, 23 wineries qualify for approximately \$2,000 for advertising and \$12 per case for distribution costs. Three wholesalers have offered their services; however, the Department of Agriculture's representative opined that wholesaler participation in the program may be limited since the law requires wholesalers to deliver the wine at the price that it pays the winery for the product. A representative of the Department of Tourism reported that plans were underway for marketing Kentucky's winery industry. Plans include establishing a brand, establishing wine trails, and creating Web sites.

In closing the meeting, the executive director of the Office of Alcoholic Beverage Control informed the members of a Jefferson County Circuit Court decision that held that KRS 241.075 was special legislation. The statute in question prohibits retail package or drink licensees that are located in a combination business and residential area from operating within 700 feet of a similar establishment. The provision does not apply to establishments located in a downtown business area.

The committee's second meeting was held in Frankfort where status reports were given by the executive directors of the Division of Occupations and Professions and the Office of Housing, Buildings and Construction. In his report, the director of the Division

of Occupations and Professions informed committee members of regulatory and proposed regulatory changes. A regulation was considered that would require veterinarians to obtain written consent from the animal's owner prior to euthanizing the animal. In addition, the division proposed regulations to ensure that the records of students in proprietary schools were available to the students when the schools close. Under the proposed change, schools must submit electronic data to the board every year, including student transcripts and financial information. To date, the division serves 20 boards and 21,584 licensees and is funded from the fees assessed against individual licensees. The director reported that the division has the capacity to assume administrative duties for additional boards at a cost of approximately \$47,600. When establishing a board, the initial costs are incurred by the division, which is subsequently reimbursed from the renewal fees the board receives after its first year of operation. The division also is considering statutory changes that would require speech-language pathologists who practice with an interim license and who fail the examination to submit documentation that they are preparing to take the national examination. A second change would tighten a loophole that permits private investigators to practice for up to 240 hours in Kentucky without obtaining a license.

The executive director of the Office of Housing, Buildings and Construction reported on legislation enacted in the 2007 Regular Session to require uniform inspection for new heating, ventilation, and air conditioning systems installed in the state. The office's plans for implementing the inspection of these systems include hiring additional inspectors and establishing online permitting at local health departments.

Next on the agenda was a presentation from the state fire marshal on SB 134 from the 2007 Regular Session, which requires cigarettes to be made with paper that self-extinguishes. The program is to be operational by April 2008. In addition, representatives of the State Fire Marshal's office proposed that fees be assessed on the businesses its office must inspect to offset costs.

The final presentation was an update on the implementation of HB 490 from the 2007 Regular Session. That bill requires prompt payment of construction contractors and subcontractors. Representatives of the construction industry reported to the committee on efforts undertaken to familiarize affected parties with the law's requirements.

The third meeting was held at Keeneland where the president and chief executive officer of the Keeneland Association welcomed members to its yearling sales and reported on the economic impact the sales have on Kentucky, drawing purchasers from 42 countries.

The first item on the agenda was the second report from the Sales Integrity Task Force. The task force moderator informed members that the meetings had been well attended and that discussion had been open and honest. He reported that the advisory committees had made recommendations on licensing bloodstock agents, transparency of ownership in horse sales, and transparency in medication in horse sales. Once a consensus is reached, the task force plans to hold one or more public forums prior to

submitting its recommendations to the Interim Joint Committee on Licensing and Occupations.

Next on the agenda, representatives of the thoroughbred, standardbred, and quarter horse industry discussed the status of the horse industry in Kentucky. Collectively, the representatives estimated that the total impact of the equine industry on Kentucky is \$4 billion, providing jobs for 80,000 to 100,000 people. The representatives expressed their appreciation to the legislature for establishing the Breeders Incentive Funds in 2006. They cautioned committee members that Kentucky was in danger of losing its stature in the horse industry unless it remains competitive with other states. Specific threats to Kentucky preeminence cited were the influx of moneys in other states from alternative gaming, the imposition of taxes on the sales of horses and feed, and the portable nature of the breeding industry.

The final item on the agenda was a status report from the executive director of the Kentucky Horse Racing Authority on its progress in implementing recommendations from the state auditor. In response to the auditor's findings, the authority is developing regulations to govern how Kentucky Thoroughbred Development Funds are distributed, is considering the use of fingerprinting in its licensing process, is exploring the possibility of hiring a supervisor of pari-mutuel racing, is recommending that a tote system be purchased to allow the authority to track daily tote information from all tracks, is retaining drug testing information and tracking historical trend analysis of the results, and is hiring a medical director.

The committee's fourth meeting was held at Cardinal Hill Rehabilitation Hospital in Lexington. The members were welcomed by the hospital's chief executive officer, who told members that 70 percent of the hospital's patients are on Medicare.

Next, members heard testimony from the executive director of the Office of Housing, Buildings and Construction and the acting director of the Division of Water on the issuance of construction-related permits. The executive director reported that the turnaround time for issuing permits has improved over the past two years and that the number of permits issued for commercial construction has remained constant despite the decline in the number of permits issued for residential construction. Such improvements are attributed to several proactive steps taken by the office, including the hiring of a professional engineer to review single-building sewer line extensions, establishing satellite offices in Louisville and northern Kentucky, and assuming jurisdiction over the Louisville Metro plumbing division. Questions raised by the committee members addressed the lack of uniformity in the application of electrical inspections and the rationale and amount of fees to be assessed for the inspections conducted by the Office of the State Fire Marshal.

Next on the agenda was a discussion of the permits issued by the Division of Water. The Division of Water issues construction permits in the Drinking Water, Water Quality, Water Resources, Waste Water Facilities Construction, Kentucky Pollutant Discharge Elimination, and Water Withdrawal Branches. The acting director of the

division reported that there was no backlog in the issuance of drinking water permits. She reported that delays in the process are generally caused by the submission of incomplete applications. She reported that the biggest backlog was with the Kentucky Pollutant Discharge Elimination permits. That program issues agricultural feeding operations permits, confined animal operations permits, combined sewer overflow permits, individual residence permits, Kentucky Inter-Municipal operating permits, no-discharge operation permits, and storm water permits for construction. The acting director reported that the division is streamlining the process, developing online permitting for some of its programs, and improving its Web site information.

The third item on the agenda was a report from the executive director of the Kentucky Board of Engineers and Land Surveyors on the establishment of continuing education requirements for engineers. To date, the board has filed an administrative regulation that does not require course preapproval and that allows engineers to select courses that fit within their specific disciplines. The regulation provides for online and self-study courses. Engineers will attest to their attendance on their biennial renewal applications. The executive director reported that the board is notifying engineers about the mandatory continuing education requirements through engineer publications and associations and the board's Web site.

The final item on the agenda was a presentation from representatives of the Kentucky Esthetics and Prosthesis Association on a proposal to license those engaged in fitting esthetics and prosthetic devices. The representatives indicated that practitioners are licensed in 11 states and must complete postgraduate training and a one-year residency to obtain national certification.

At the committee's fifth meeting, representatives of the Sales Integrity Task Force presented their recommendations relating to improving accountability in the area of horse sales. The recommendations included adding a bloodstock agent code of conduct to the conditions of sales at both Fasig-Tipton and Keeneland. The code of conduct details specific issues that an agent must disclose to his or her principal in order to act in the principal's best interest. The recommendations also included establishing a voluntary owner registry and requiring disclosure if ownership is changed prior to the sale but after the horse is on the sales grounds. In addition, the recommendations addressed specific medical procedures that would be prohibited. Injections behind the knee to conceal the true condition and conformation of the horse shall be prohibited. Exogenous anabolic steroids are also prohibited within 45 days of sale. To support the prohibition on exogenous anabolic steroids, purchasers may request testing immediately after a horse is sold. Any presence of exogenous anabolic steroids may result, at the purchaser's discretion, in the voiding of the sale. The task force's report also noted that research will begin in 2008 to determine naturally occurring levels of other anabolic steroids with the goal of banning other steroids as the research progresses.

Second on the agenda, a representative of the Kentucky Grape and Wine Council presented an update on the status of the industry in Kentucky. The presentation included data on the acreage of grapes under cultivation and the amount of wine being produced in

the various regions of Kentucky over the last several years. The presentation also discussed some of the steps the legislature has taken to help the industry and plans for future growth. The current system for shipping wine from wineries was also discussed, with particular attention given to the reimbursement of wholesalers and the difficulty of shipping to other states and to “dry” areas within the state in light of ongoing court actions.

The last item on the agenda was a presentation from a representative of the Kentucky Board of Architects on proposed legislative changes to KRS Chapter 323. The changes discussed primarily related to clarifications of terms, the provision of an emeritus architect, and an increase from \$5,000 to \$10,000 in the maximum amount of a civil penalty the board could impose against an architect.

**Report of the 2007
Interim Joint Committee on Local Government**

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

Sen. Walter Blevins, Jr.
Sen. Julian M. Carroll
Sen. Carroll Gibson
Sen. Ernie Harris
Sen. Tom Jensen
Sen. Dan Kelly
Sen. Alice Forgy Kerr
Sen. Elizabeth Tori
Sen. Johnny Ray Turner
Sen. Ed Worley
Rep. Scott W. Brinkman
Rep. Ron Crimm
Rep. Robert R. Damron
Rep. Mike Denham
Rep. Ted "Teddy" Edmonds

Rep. David Floyd
Rep. Derrick Graham
Rep. Richard Henderson
Rep. Charlie Hoffman
Rep. Dennis Keene
Rep. Adam Koenig
Rep. Thomas M. McKee
Rep. Reginald K. Meeks
Rep. Brad Montell
Rep. David Osborne
Rep. Arnold Simpson
Rep. Ancel Smith
Rep. Ken Upchurch
Rep. Jim Wayne

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

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee on Local Government

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

Committee Activity

The Interim Joint Committee on Local Government met five times during the 2007 Interim.

The committee's first meeting, on June 20, was held in Covington in conjunction with the Northern Kentucky Chamber of Commerce's Northern Kentucky Days. Representatives of the Northern Kentucky Chamber of Commerce gave a presentation on its Taxation Committee, which supports recent legislative efforts to address local tax reform. The representatives discussed the nature of local government taxation and recommended constitutional changes that would promote revenue sharing, including a consumption-based tax form.

In addition to addressing local government taxation issues, local officials discussed pension issues. The following suggestions for changes to the pension system were suggested by Kenton County officials: calculating retirement based on the last five years rather than the last three; raising the employee contribution; changing the health plan participation benefits for hazardous duty employees; raising the minimum retirement age to 65; and creating a two-tiered retirement system.

The Campbell County judge/executive and the Campbell County administrator similarly addressed the committee on pensions from their perspectives. They emphasized

that the health care aspect of the county employees retirement system needs to be considered.

The mayor and a city commissioner of Covington discussed the funding mechanisms for the retirement system and the health insurance of retirees. Possible solutions to the pension system funding problem may include creative capital sourcing, reviewing the current pension system in terms of switching to a defined contribution or a blended retirement program, and reviewing the age of retirement.

The judge and deputy judge from Campbell County as well as Campbell County's judge/executive and administrator discussed county jails, including jail population and expenses in the Kenton and Campbell County jail systems.

The Campbell County judge/executive also discussed the funding of 911 systems with respect to land-line telephone uses and the resulting changes in taxation patterns. He also noted that it might be the right time to reconsider city classification practices.

The Taylor Mill city administrator addressed the additional situation that Taylor Mill is facing regarding competitive recruiting and maintaining new employees. She also discussed limited funding options available to cities.

At its second meeting, on July 13, the committee heard from the Kentucky County Judge/Executive Association, the Kentucky Magistrates and Commissioners Association, Kentucky Association of Counties, Louisville/Jefferson County Metro Government, and the Governor's Office of Local Development.

The executive director of the Kentucky Association of Counties provided an update of the Governor's Blue Ribbon Commission on Public Employees Retirement Systems.

The Boyle County judge/executive and the Larue County judge/executive addressed the committee on the issue of jail costs. It was noted that many counties expend one-third of the general fund to supplement jail operations, with some counties approaching a level of two-thirds. It was also noted that jail populations are increasing and that there is a lag time between arrest and sentencing of prisoners. The county officials indicated that a state takeover of jails would resolve the funding problems.

The Kentucky Magistrates and Commissioners Association has established a county initiative for combating drug abuse. A Shelby County magistrate and Harlan County magistrate updated the committee on the initiative. They also proposed the introduction of 2006 SB 34 in the 2008 Regular Session.

The mayor of Louisville/Jefferson County Metro Government addressed the committee on jail and pension issues. The mayor also noted the influence that partnerships between his government and the state have on local governments throughout the Commonwealth.

The committee also reviewed administrative regulations, election costs to counties, and the 2007 Kentucky Small Cities Community Development Block Grant application.

At the third meeting of the committee, on September 26, representatives from the Justice and Public Safety Cabinet and the Office of Drug Control Policy spoke on state drug control efforts. They discussed the office's history, the office's enforcement strategies, the state of drug use in Kentucky, the office's current treatment strategies, jail treatment programs, drug court expansion, Operation Unite enhancement, the expansion of a Medicaid benefit for substance abuse, additional proposed initiatives, and the cabinet's 2008 legislative proposals.

Officials representing Chapter 75 fire districts provided a brief history of the finance mechanisms and expenditure obligations of fire districts. They discussed the demographics of modern departments, occupation and health standards, training standards, and a possible expansion of revenue for the fire districts.

The committee's fourth meeting, on October 11, was held at the Kentucky League of Cities' 2007 Annual Conference at the Northern Kentucky Convention Center. The agency's chief executive officer and other officials presented their legislative agenda for the 2008 Regular Session. The legislative agenda addressed the rising cost of health care and retirement, granting additional revenue-raising authority to cities, and the telecommunications tax.

Representatives from northern Kentucky, Lexington, and the National Conference of State Legislatures addressed the committee on walking and biking trails. The representative from northern Kentucky's Vision 2015 group gave a progress report on the its long-term goals of achieving 100 to 200 miles of trails. The speaker from Lexington discussed the urban-county government's efforts at improving biking and walking infrastructure. A representative from the National Conference of State Legislatures discussed national efforts at biking and walking infrastructure improvements and funding.

At its November 20 meeting, the committee heard testimony relating to a prefiled bill; reviewed an administrative regulation; and explored the roles, function, and funding of soil and water conservation districts.

Representatives from the Governor's Office for Local Development presented testimony on 109 KAR 15:020 relating to the county budget preparation manual.

The committee heard a presentation from the sponsor of 2007 RS BR 104, relating to constables. The legislation provided more training for constables, improved access to constables for service of process, dealt with vacancies in the office, and augmented the powers of the office.

Representatives from the Jefferson County Soil and Water Conservation District, Boone and Campbell County conservation district, and the Division of Conservation addressed the committee on the functions of soil and water conservation districts.

**Report of the 2007
Interim Joint Committee on Seniors, Veterans,
Military Affairs, and Public Protection**

**Sen. Elizabeth Tori, Co-Chair
Rep. Tanya Pullin, Co-Chair**

Sen. Perry Clark	Rep. Bill Farmer
Sen. Carroll Gibson	Rep. David Floyd
Sen. Denise Harper Angel	Rep. Jim Glenn
Sen. Vernie McGaha	Rep. Jeff Greer
Sen. Daniel Mongiardo	Rep. Tim Moore
Sen. Joey Pendleton	Rep. Rick Nelson
Sen. Jerry Rhoads	Rep. Fred Nesler
Sen. J. Dorsey Ridley	Rep. Steve Riggs
Sen. Richard “Dick” Roeding	Rep. Tom Riner
Sen. Dan Seum	Rep. Carl Rollins
Sen. Katie Stine	Rep. Steven Rudy
Sen. Jack Westwood	Rep. Sal Santoro
Sen. Ken Winters	Rep. Charles Siler
Rep. Sheldon Baugh	Rep. Dottie Sims
Rep. Carolyn Belcher	Rep. Ancel Smith
Rep. Larry Belcher	Rep. John Tilley
Rep. Tom Burch	

LRC Staff: Erica Warren, Clint Newman, Mustapha Jammeh, Tyler Campbell, and Rhonda Schierer

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
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; and garbage refuse disposal.

Committee Activity

During 2007, the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection held six meetings.

The June committee meeting began with the adoption of four resolutions honoring Kentucky soldiers killed in the Global War on Terrorism.

The commissioner and deputy commissioner of the Department of Veterans Affairs gave an overview of legislation passed during the 2007 Regular Session, as well as a review of legislative priorities of the department for 2008. He then highlighted needs of the department that were not passed during the 2007 Regular Session. These legislative proposals will also become the department's 2008 legislative priorities, and will include the department's \$2 million structural imbalance; expansion of the Western Kentucky Veterans Center, which they would like to have funded through bonds; veterans preference legislation; funding the veterans personal loan program that was created in 2006, but which has never received funding; and enacting a conservator program so the department could serve as a conservator for veterans deemed incapable of handling their own affairs.

The committee next heard from the secretary of the Personnel Cabinet about the process that led up to the creation of the Veterans' Advocate program as a joint effort between the governor, the Personnel Cabinet, and the Department of Veterans Affairs to ensure that Kentucky veterans were receiving the proper assistance in applying for state jobs for which they were qualified. A commissioner with the Personnel Cabinet stated that the goals of the Veterans' Advocate program are to assist applicants who are veterans, assist the Personnel Cabinet staff in interpreting veterans' military experience in civilian terms, and assist nonveteran hiring managers. The cabinet hired a veterans' advocate in April 2007. The commissioner stated that the Personnel Cabinet is making a concerted effort to publicize the services of the Veterans' Advocate program not only to applicants but to agency hiring managers as well.

The committee then heard from the president of the Patton Museum Foundation and the vice chair of the Patton Museum Board of Trustees on plans for expansion of the museum, located at Fort Knox. The new General George Patton Museum will include a diverse mix of guest experiences, including interactive exhibits, multimedia theaters, live demonstrators, simulators, outdoor activities, special events, and thematically integrated dining and museum store shopping. The goals of the renamed museum will be to honor the American soldier; explore the legacy of General George S. Patton, Jr.; inspire audacious leadership; promote army values; celebrate the people, stories, and traditions of Cavalry and Armor; complement training; create a flexible museum infrastructure that will allow growth and evolution; and increase attendance and generate revenue for sustaining the museum.

The president of the foundation anticipates it will take from three to five years to raise the money for the museum and two years for construction. The total projected cost is \$50 million. He stated that \$35 million will come from individual and corporate donations and that the Patton Museum Board of Trustees will seek \$10 million from the federal government and \$5 million from the General Assembly.

The August committee meeting began with the adoption of four resolutions honoring Kentucky soldiers killed in the Global War on Terrorism.

A military spouse testified before the committee about concerns of military families and discussed ideas of what the state might do to help these families while soldiers are preparing to deploy, are deployed, and after they return home. This wife of a Kentucky National Guard soldier expressed the myriad types of stress and challenges that families face during the deployment process. She encouraged having some form of a family readiness packet to be handed out along with deployment orders. She also felt that the information provided currently is insufficient to mentally prepare families.

The adjutant general of the Kentucky National Guard next spoke to the committee. He reminded committee members of the National Guard's unique dual mission of serving both the Commonwealth and the nation. He summarized the Military Family Assistance Trust Fund program and stated that the board is marketing the existence of the fund and processing inquiries and applications. The board had also submitted proposed administrative regulations to establish monetary limits per grant application and per soldier or soldier's family annually.

The adjutant general further mentioned that qualifying National Guard and Reserve soldiers who die on federal active duty are eligible for death benefits. Additionally, all members of the Kentucky National Guard serving on state active duty also qualify for death benefits. To date, the state had paid \$1.44 million to 18 military families. He pointed out that the General Assembly's intent is unclear regarding apportioning death benefit claims. He encouraged the General Assembly to clarify its actual intent.

The adjutant general addressed the Welcome Home Program for National Guard members and their families when deployments end. This program is conducted in the communities where the unit is based. He further described the types of personnel that meet with soldiers. The chaplains have developed a program called Warrior Refocus that helps soldiers who elect to return immediately to military duty to adjust to home life and discuss deployment experiences. Finally, after the soldiers return, there is a Freedom Salute celebration where awards are presented and the post-deployment health risk assessments are completed. The adjutant general stressed that the National Guard is in the process of implementing and adopting other programs for soldiers as well.

The committee next heard from representatives of the Joint Executive Council on Veterans Organizations (JECVO). The chairman of JECVO presented a statistical breakdown of veterans in the state. He said that the nursing homes in Hazard, Hanson, and Wilmore are all full, and many of the veterans in the state are getting to the age when they will need to be placed in nursing homes.

The legislative chairman of JECVO stated that the veteran service organizations have seven issues that they would like the General Assembly to address during the next legislative session:

1. Adequate funding of the Kentucky Department of Veterans Affairs
2. Expanding the veterans' nursing home in Hanson
3. Providing a line item in the Department of Veterans Affairs budget that specifies the amount of money for training contracts
4. Passing legislation on veterans' preference in state hiring
5. Approving a veterans' nursing home in Louisville
6. Funding for the department to assume fiduciary responsibilities for certain veterans
7. Expanding the veterans' nursing home in western Kentucky

Two executive orders were also before the committee. Executive Order 2007-453 related to the reorganization of the Kentucky Intelligence Fusion Center, which had no fiscal or personnel impact. Executive Order 2007-499 abolished the Division of Air Transportation in the Department of Military Affairs and transferred the division's responsibilities to the Transportation Cabinet.

The September meeting began with the adoption of two resolutions honoring Kentucky soldiers killed in the Global War on Terrorism.

The adjutant general spoke to the committee about the status of the National Guard in Kentucky. He then gave an extensive summary of the types of programs the Kentucky National Guard supports and an update of the Military Family Assistance Trust Fund. The adjutant general discussed the military death benefits. He provided an analysis of the differences between the federal and state benefits and further discussed who was eligible for which type of benefits. Specifically, he pointed out that Kentucky's death benefit excludes any active-duty guardsman who is stateside, as well as regular military who are stateside. Of the 65 Kentuckians killed in action since July 1, 2002, 18 have been paid to date, two have payments pending, and 45 active-duty military did not qualify. The

adjutant general stated that the average annual cost is based on four soldiers per year, at \$320,000.

The garrison commander gave an overview of the Base Realignment and Closure (BRAC) process at Fort Knox. The committee watched a video that described what Fort Knox was gaining and what it was losing through BRAC, along with specifics of the necessary construction and infrastructure improvements to meet future needs. The BRAC decision for Fort Knox will mean an estimated gain in population of between 3,000 and 4,000 individuals by FY 2013. The increase in population will come through the acquisition of the Human Resources Command and the Brigade combat team. The biggest losses are the Regional Correctional Facility and the Armor Center. Between FY 2006 and FY 2013, there will be \$856 million worth of construction. The garrison commander went on to explain the three phases the construction plan encompasses.

The garrison commander then focused on the infrastructure improvements necessary to provide for the BRAC gains that Fort Knox will experience. Transportation, workforce, and social services were all identified needs. Because of the timetable for the additional personnel coming to Fort Knox, these needs cannot wait to be addressed in the future. Specifically, the road projects associated with BRAC at Fort Knox cannot be placed at the end of the six-year road plan.

The directors of the Louisville and Lexington Veterans Administration Medical Centers then provided the committee with information on their respective facilities. The director of the Louisville center explained that the Capital Asset Realignment for Enhanced Services (CARES) process for Louisville resulted in a decision that the Veterans Administration (VA) would need to replace the hospital in Louisville in order to continue to adequately serve the veterans of the area. Many CARES decisions have been delayed due to the loss of two VA hospitals that were destroyed or severely damaged by Hurricane Katrina.

Despite the slowed process for planning appropriate project funding of the new medical center, Louisville is moving forward with its preliminary plans. Finding alternative sites for a hospital and allowing for collaboration with the University of Louisville are current goals. The cost of construction would be approximately \$532 million and would take 18 to 20 months to design and 30 to 60 months to construct. It can sometimes take two to four years just to get congressional approval to move forward with construction; therefore, the completed facility will be an 8- to 10-year proposition.

The director of the Lexington center gave an overview of its three locations: two in Lexington and one in Somerset. The CARES process also resulted in a determination of the need for a new facility in Lexington. Currently the facilities have a great deal of vacant space because the facilities are no longer useable for health care. The new facility will be built on the property already owned by the VA in Lexington, and the current space will be able to go into the Enhanced-Use Leasing Program to be used by businesses or services complementary to the VA's purposes.

The October committee meeting began with the adoption of two resolutions honoring Kentucky soldiers killed in the Global War on Terrorism.

The executive director of the Office of Homeland Security briefed the committee on the Kentucky Intelligence Fusion Center's partnership with CSX Railroad to gain access to railway cargo information on CSX trains in Kentucky. She discussed the software solution that allows the center to know exactly what CSX is hauling 12 hours in advance of that rail coming through Kentucky. She stated the center can track the location, content, and status of all CSX rail cars in the Commonwealth.

The division director of the Homeland Security Exercise and Evaluation Program presented an overview of the purposes of the exercise program and then allowed the members of the committee to see the exercise program in operation and help them understand the preparation for any disaster in the Commonwealth. He discussed the division's concept planning materials, the exercise development process, program goals for 2007-2008, exercise objectives, and types of exercises available to local and regional planning teams, including the tabletop, functional, and full-scale exercises. He demonstrated a tabletop exercise with a mock flood scenario including a news clip in Greenup County. He stated that one of the first things that has to happen when federal, state, and local agencies come together is finding a central location for headquarters like the Ashland Regional Airport, where the meeting was held.

The division director then allowed others to explain their roles in a tabletop exercise. A compliance officer gave an overview of the National Incident Management System Program and how it applies when there is a disaster response situation. Another presenter from the Kentucky Department for Public Health Preparedness Branch discussed public health issues during disaster situations. The director of operations for the Kentucky Board of Emergency Medical Services explained the importance of additional support for the emergency medical services providers at the local levels. The chairman of the Kentucky Fire Commission spoke on state fire rescue training, explaining that while they are affiliated with the Kentucky Community and Technical College System, they have 14 area offices spread across the Commonwealth. They deliver 20 hours of training to the fire departments throughout Kentucky without cost to the department or firefighters.

The November meeting began with a presentation from the commander of the Coast Guard Sector Ohio Valley on the Coast Guard's roles in Kentucky and elsewhere. The commander first gave an overview of the Coast Guard in general, breaking down the tasks performed on an average daily basis. He explained the organizational structure of the Coast Guard within Homeland Security and the different sectors around the world. Sector Ohio Valley includes 10 states, and there are more than 250 active personnel, more than 160 reserve members, 13 civilian personnel, and more than 1,000 volunteers.

The Sector Ohio Valley missions include ports and waterways security, search and rescue, aids to navigation, recreational boating safety, marine environmental response, waterways management, law enforcement, and marine investigation and

inspection. Along with its daily activities, the Coast Guard also assists with major events along the river, such as Thunder Over Louisville. The Coast Guard also has six inland river tenders, including two in Kentucky, at Hickman and Owensboro. Five small response boats are stationed along the Ohio River in Louisville and Paducah.

Next the committee heard about nursing home evacuation plans by the director of the Division of Emergency Management, the commissioner of public health, and the deputy inspector general within the Cabinet for Health and Family Services. Weaknesses in the response of the public health infrastructure were revealed after the terrorist attacks on September 11, 2001, and subsequent anthrax releases around the country. Congress responded to the issues with mandates and funding, and the Department of Public Health has been actively involved at the state level. Partnerships have been established and strengthened at the state and county level, including public entities, associations, and private health groups. Across Kentucky, 14 health care planning regions were established. Originally, efforts focused on local health departments and hospital preparedness. Over time, the focus was expanded to include mental health centers and long-term care (LTC) facilities.

LTC facilities were invited to attend regional planning meetings and integrate evacuation plans into existing plans in place at the local and regional levels. The Kentucky Association of Health Care Facilities and the Kentucky Home Health Association promoted preparedness coalitions for LTC facilities and home health providers. The commissioner pointed out that the Department for Public Health held two training sessions for statewide dissemination of disaster preparedness planning for LTC facilities. This training was attended by 60 LTC providers, who were asked to train an additional 60 individuals. Fourteen additional training sessions have been conducted across the state, and to date, over 900 LTC providers have taken the course.

The Department of Public Health has also established a special needs working group to further define the population and issues that will arise for people with special needs during a disaster. They are currently testing a Special Needs Registry pilot program in the Lincoln Trail District.

While the basic components of LTC facility emergency preparedness are being addressed, the deputy inspector general noted that her office's role is simply to go into an LTC facility and only see if the facility meets the minimal federal requirements. For truly local or regional disasters, a great deal of further planning would be needed. However, the federal requirements do not mandate further planning.

The committee heard from the director of Economic and Community Development with the Department of Tourism about the certified retirement community program launched within the state in 2002. The director gave an overview of the program, which certified local communities that committed to promoting themselves as valuable places for retirees to live. The department certified eight communities initially, created brochures, and advertised in the American Association of Retired Persons magazine. The advertisements were highly successful, and the department received many

calls over several years for the brochures. However, after initial funding in FY 2003, there has been no additional funding provided by the General Assembly, so the program has not been marketed further. The director also pointed out that there is no good way to measure the effectiveness of the program and that other states with similarly established programs have also not measured the economic impact.

The state director for AARP discussed its legislative priorities for 2008. At the national level, AARP wants the 2008 presidential candidates to address economic security and access to health care. AARP has a national campaign titled "Divided We Fail." In Kentucky, AARP will be seeking additional state funding for senior services and in-home care. It will also push refinements to the consumer protection laws, particularly around the area of identity theft. AARP will encourage passage of a bill relating to long-term care insurance rate increases and another bill that would encourage the purchasing of long-term care insurance so that people do not need Medicaid as quickly as they would if they did not have the insurance. It will support legislation to provide consumers with information about annuity investments and will encourage strengthening predatory lending laws.

An official with the Kentucky Teachers' Retirement System addressed the committee on the minimum value benefit found in KRS 161.620(3) and explained that the formula relies heavily on the final salary the teacher was making. The formula is 2% times the years of service times the final average salary based on the last five years of service. The minimum value benefit, readjusted in 2002, sets a baseline of \$440 times the number of eligible years. Prior to that statutory change, the minimum level fell below the poverty line for a single person.

The committee reviewed the proposed administrative regulations for the Military Family Assistance Trust Fund.

In December, the committee will hold its sixth meeting at Fort Campbell Army Base. The commanding general and garrison commander will give an update on the activities at Fort Campbell and the effect that BRAC decisions are having and will have on the base. The committee will also hear from representatives of the Hopkinsville Chamber of Commerce and the Fort Campbell Historical Foundation. The committee will then tour the base.

**Report of the 2007
Interim Joint Committee on State Government**

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

Sen. Walter Blevins, Jr.	Rep. J.R. Gray
Sen. Julian M. Carroll	Rep. Mike Harmon
Sen. Carroll Gibson	Rep. Melvin B. Henley
Sen. Ernie Harris	Rep. Jimmy Higdon
Sen. Tom Jensen	Rep. Charlie Hoffman
Sen. Dan Kelly	Rep. Jimmie Lee
Sen. Alice Forgy Kerr	Rep. Mary Lou Marzian
Sen. Elizabeth Tori	Rep. Lonnie Napier
Sen. Johnny Ray Turner	Rep. Darryl T. Owens
Sen. Ed Worley	Rep. Tanya G. Pullin
Rep. Eddie Ballard	Rep. Tom Riner
Rep. Sheldon E. Baugh	Rep. Carl Rollins II
Rep. Johnny Bell	Rep. Dottie Sims
Rep. Kevin D. Bratcher	Rep. John Will Stacy
Rep. Dwight D. Butler	Rep. Kathy W. Stein
Rep. Larry Clark	Rep. Tommy Thompson
Rep. Leslie Combs	Rep. John Tilley
Rep. Tim Couch	Rep. John Vincent
Rep. Joseph M. Fischer	Rep. Jim Wayne
Rep. Danny R. Ford	Rep. Rob Wilkey
Rep. Jim Glenn	Rep. Brent Yonts
Rep. Derrick Graham	

LRC Staff: Joyce Crofts, Karen Armstrong-Cummings, Judy Fritz, Brad Gross, Alisha Miller, Clint Newman, Karen Powell, Bill VanArsdall, Greg Woosley, Peggy Sciantarelli, and Terisa Roland

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Subcommittee Organization and Membership

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

Sen. Damon Thayer, Co-Chair

Rep. Darryl Owens, Co-Chair

Sen. Julian M. Carroll
Sen. Carroll Gibson
Sen. Alice Forgy Kerr
Sen. Elizabeth Tori
Rep. Kevin D. Bratcher
Rep. Larry Clark
Rep. Joseph M. Fischer

Rep. J.R. Gray
Rep. Mike Harmon
Rep. Melvin B. Henley
Rep. Mary Lou Marzian
Rep. Dottie Sims
Rep. Kathy W. Stein
Rep. Rob Wilkey

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 2007 Interim. The committee focused on storage of public records, monitoring of local government receipts, the Abraham Lincoln Bicentennial, public employee retirement and employer contribution rates, private development on public property, executive reorganization orders, public employee health insurance, the Kentucky Code of Legislative Ethics, 2008 legislative proposals of the State Personnel Board and the Kentucky League of Cities, status of the Kentucky lottery, and prefiled legislation relating to retirement.

In June, the executive director of the Kentucky Historical Society and the executive director of the Commerce Cabinet's Office of Arts and Cultural Heritage updated the committee on plans for Kentucky's commemoration and celebration of the Abraham Lincoln Bicentennial. The state librarian and the commissioner of the Department for Libraries and Archives' Division of Public Records discussed the department's needs for additional storage space in order to appropriately store the state's public records, the recommended construction design for a high-volume repository, and the department's records management strategy. They also gave an update on two bills relating to libraries that were enacted in the 2007 Regular Session: House Bill 273 and House Bill 386. Finally, staff of the Governor's Office for Local Development discussed their proposed legislation to write into statute the existing procedures for monitoring funding of local government projects. In July 2006, the office began to monitor all projects above \$50,000 that fell under the Office of State Grants.

In July, the committee received a status report on the work of the Blue Ribbon Commission on Public Employees Retirement Systems. The secretary of the Personnel Cabinet, who is also chair of the commission, discussed the group's strategy and plan of action. He also reported on activities of the Pensions Working Group, which he chairs. The secretary of the Cabinet for Health and Family Services reported on activities of the Health Insurance Working Group, and the state budget director gave the report for the Funding Liabilities Working Group. The commissioner of the Department for Facilities and Support Services in the Finance and Administration Cabinet and the deputy general counsel for the Commerce Cabinet discussed policy and procedures relating to private development on state property. The committee also reviewed Executive Order 2007-500, reorganizing the Personnel Cabinet; and Executive Order 2007-502, reorganizing the Finance and Administration Cabinet.

The September meeting was devoted to discussion of the 2008 Kentucky Employees Health Plan with officials of the Personnel Cabinet and the Cabinet for Health and Family Services. Representatives of Humana Kentucky gave a presentation on the requirements and administration of Humana spending accounts and use of the Humana Access debit card.

At the October meeting, the executive director of the Legislative Ethics Commission and the commission's chairman presented recommended changes to the Kentucky Code of Legislative Ethics. The director of governmental affairs with the Kentucky League of Cities also presented the league's legislative proposals for 2008. The president and senior vice president of the Kentucky Lottery Corporation gave a status report on the lottery, including the impact of the expansion of gaming in neighboring states and how proceeds have been allocated since the lottery's inception in 1989. Finally, the committee discussed 2008 BR 381, sponsored by Rep. Cherry and Rep. Graham. The legislation relates to extending the high-three final compensation window and the 2.2 percent benefit factor window set to expire in January 2009.

At the final meeting in November, the committee discussed legislative proposals of the Kentucky Personnel Board, presented by a member of the board and the board's general counsel. The agenda also included a discussion of 2008-2009 employer contribution rates for Kentucky Retirement Systems. The chief operations officer for the retirement systems and the executive director of the Kentucky League of Cities were the guest presenters.

Subcommittee Activity

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

The Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs held five meetings during the 2007 Interim.

At the first meeting in June, the executive director of the State Board of Elections and the secretary of state reported that the May primary went smoothly and that voter turnout had been higher than expected. The secretary stated that his staff received fewer calls and complaints than during the 2006 primary. The executive director of the State Board of Elections informed the task force that there is still \$15.9 million in Help America Vote Act funds and that there would be a meeting with county clerks in July 2007 to talk about how the money should be spent.

The task force held its second meeting July 24. The secretary of state presented information about a plan being discussed in many states to involve more states in the nomination process for presidential candidates. The plan is called the rotating regional presidential primary. The secretary said many states are proposing earlier dates on which to hold their presidential primaries in order to have a greater impact on nominee selection. The National Association of Secretaries of State has proposed a plan that would divide the country into four regions. Each region would hold its presidential preference primary during the same month, beginning in March of the presidential election year and continuing over the next three months. Initially, there would be a drawing to determine the order of the regions for the first primary, and the regions would then rotate in subsequent years. Over the course of four presidential elections, each region would go first, thereby increasing the importance of the region's primary choices. The estimated cost of such an election would be approximately \$5 million for the Commonwealth.

The September meeting was a voting machine vendor fair. Representatives from Harp Enterprises, Premier Elections Solution, Inc., and Kentuckiana Election Services set up voting machines in the meeting room for the members of the task force to inspect. Each of the representatives gave a brief presentation about the voting machines that were distributed by their companies. Members viewed and practiced voting on the various machines.

On October 23, the task force held its fourth meeting and heard testimony from a staff person from the Office of the Attorney General about an investigative report on the Kentucky electronic voting system. A deputy attorney general stated that California and Florida had found significant problems with the voting systems that are also used in Kentucky. An electronic voting systems expert and consultant to the Office of the Attorney General made recommendations for statutory changes that he said would strengthen the security of Kentucky's electronic voting systems, including a more rigorous testing scheme for the voting equipment. The executive director of the State Board of Elections and the general counsel to the board stated that the board followed Kentucky law and that the recommendations would be very expensive to implement.

The final meeting of the task force was held in Louisville, on November 19, at the office of the Urban League of Louisville. Rep. Owens discussed 08 RS BR 194, a prefiled bill that he co-sponsored with Rep. Crenshaw. BR 194 amends Section 145 of the Constitution of Kentucky to restore voting rights to certain felons under certain conditions. Spokespersons from the League of Women Voters, the Catholic Conference of Kentucky, the Office of the Jefferson County Commonwealth Attorney, and the

National Association for the Advancement of Colored People spoke on behalf of the proposed legislation.

The executive director of the State Board of Elections stated that the November election went smoothly even though there were a number of new county clerks. She also stated that more money is needed to recruit able precinct workers. She explained that provisional ballots were not used during the November 2007 election because the law only required that such ballots be made available during federal elections.

**Report of the 2007
Interim Joint Committee on Transportation**

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

Sen. Walter Blevins	Rep. Jim DeCesare
Sen. Charles Borders	Rep. J.R. Gray
Sen. David E. Boswell	Rep. W. Keith Hall
Sen. Robert “Bob” Leeper	Rep. Richard Henderson
Sen. R.J. Palmer	Rep. Melvin Henley
Sen. Richard Roeding	Rep. Jimmie Lee
Sen. Richard Sanders	Rep. Charles Miller
Sen. Gary Tapp	Rep. Russ Mobley
Sen. Damon Thayer	Rep. Lonnie Napier
Sen. David Williams	Rep. Rick Nelson
Sen. Ed Worley	Rep. Marie L. Rader
Rep. John Arnold	Rep. Sal Santoro
Rep. Eddie Ballard	Rep. Arnold Simpson
Rep. Carolyn Belcher	Rep. Ancel Smith
Rep. Larry Belcher	Rep. Brandon Spencer
Rep. Johnny Bell	Rep. Jim Stewart
Rep. Leslie Combs	Rep. Tommy Turner
Rep. Tim Couch	Rep. John Vincent

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

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee on Transportation

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

Committee Activity

The Interim Joint Committee on Transportation met four times during the 2007 Interim.

During the first meeting, held on June 5, the committee heard testimony from the Kentucky Transportation Cabinet (KYTC) and a representative from the Kentucky Resources Council regarding proposed amendments to the Wild Rivers statutes (KRS 146.241). The amendment to KRS 146.241 would establish that KRS 146.220 to 146.360 could not be construed to prohibit or interfere with the construction of the proposed Interstate 66. The Interstate 66 - Somerset to London construction (Six Year Highway Plan Item No. 8-59.10) runs from the vicinity of the northern bypass (I-66) in Somerset to Interstate 75 between London and Corbin. The counties involved are Pulaski, Rockcastle, and Laurel.

In 1991, Congress authorized an I-66 feasibility study. Transamerica Transportation Corridor's study showed that the construction of segments of I-66 would be regionally feasible. A second report by the Kentucky Transportation Center showed that the widening of I-66 would benefit the region's economy and quality of life. A further 2000 study by the Kentucky Corridor showed that the Somerset to London segment should be given the highest priority when considering construction of I-66.

House Bill 89 from the 2007 Regular Session proposed changes that identified the Rockcastle River from the KY 80 (later renumbered as KY 1956) bridge to the backwater of Lake Cumberland. The proposed changes aligned with KRS 146.220 to 146.360, the state's statutes recognizing the Commonwealth's natural resources as a cultural value, which state that nothing should be construed to prohibit or interfere with the relocating or construction of KY 1956 or proposed I-66, including the construction of bridges at a point near the existing KY 1956 bridge. Construction along the northern corridor was selected because of fewer environmental impacts to the Daniel Boone National Forest, the Kentucky Wild River, and endangered species. The northern corridor was also preferred because of less public opposition and reduced construction cost.

The Kentucky Resources Council spokesperson informed the committee about the cabinet's neglect in finalizing environmental impact studies prior to moving ahead on the I-66 construction. He stated that without the finalization of those studies, the Commonwealth may be unintentionally destroying some of its natural resources. He urged the cabinet to finalize all of the required impact studies before making final preparation for the construction of I-66.

The Kentucky State Police, the Kentucky Injury Prevention and Research Center, and KYTC testified on drug testing protocols and reporting requirements for commercial driver's license (CDL) holders under 2007 Senate Bill 217. An official from KYTC said that any suspension of a CDL must contain due process provisions including an appeal and hearing process. This administrative action would be the responsibility of the Division of Driver's Licensing within the Department of Vehicle Regulation. There would be additional costs involved, and the costs related to the implementation of an alcohol or drug testing program could be assessed to the motor carrier industry through a possible fee assessment. The cabinet was concerned that positive tests of commercial truck drivers can go unreported. The cabinet official said that drivers may test positive, move to another company, and drive without being reported.

A spokesperson for the Department of Vehicle Enforcement stated that compliance audits sometimes reveal company failure to report positive tests, but no punitive action can be taken against the company or the applicant.

The last item on the committee's agenda was a report by KYTC on its current and historical backlogs in processing title requests. KYTC processed more than 1.4 million titles and 170,000 duplicate titles in 2007. On average, more than 700 duplicate titles are requested daily. Currently, the turnaround time for processing these titles is 15 to 20 days. The lengthy processing time is due mostly to the number of KYTC employees retiring, the amount of time it takes an agency to process the paperwork for hires, current employees' summer vacations, and the work done by the company responsible for the printing of the titles. A committee member stated that the length of time it takes to receive a title is unacceptable and the problem must be corrected. The committee asked KYTC to study the issue of using the cabinet's current system to produce electronic titles.

During the committee's September 4 meeting, held at Gateway Community College in Florence, the committee heard testimony from the president/chief executive officer of Corporex Companies, LLC, who discussed future plans for a project known as the Ovation Complex. This residential and commercial development is contingent upon the construction of an east-west connector between I-471 and I-75. Without the construction of this east-west connector, the Ovation Complex would not be feasible as currently designed. He asked the committee to consider funding such a connector.

Sen. Williams addressed the committee regarding 08 RS BR 244, Public Infrastructure Authorities. Sen. Williams stated that inflation, aging infrastructure, increasing numbers of projects, and lack of a viable federal funding mechanism have caused a funding crisis in Kentucky. Nationally, the statistics show that in the U.S. over

the last 50 years; the population has grown by 77 percent; the number of vehicles has increased by 271 percent; and the total miles driven has skyrocketed by 471 percent, to almost 3 trillion miles annually.

BR 244 is the first attempt at finding ways to address Kentucky's infrastructure needs while assuring that Kentucky's taxpayers do not pay a disproportionate share of costs on projects of regional and national importance. BR 244 allows local governments to address large, public infrastructure needs by asking the governor to create local public infrastructure authorities. The governor would create these authorities by executive order, which would require General Assembly approval. The authorities would be empowered to undertake and operate large, public infrastructure projects as allowed by their charter. The authorities would have the ability to issue revenue bonds to cover project costs; contract with public or private entities in or outside Kentucky for design, construction, maintenance, and operation of their projects; accept federal, state, or local grants or appropriations; and fix and periodically revise tolls. BR 244 creates alternative avenues of financing and does not preclude the state from undertaking the projects in a traditional manner.

The state's transportation needs are significant and growing faster than traditional revenue streams. Congestion is costing the American public billion of dollars every year and is literally choking the metropolitan centers. The said public-private partnerships offer tools state and local government should explore to begin addressing the state's needs.

The committee held a discussion with northern Kentucky judges/executive about infrastructure and funding needs. For example, in Boone County, major development projects have had to be denied due to a lack of infrastructure. Two other examples are a Richwood Road industrial park project that would have offered 2,000 additional jobs and a subdivision project designed to build more than 1,200 homes.

Representatives from Carroll, Gallatin, Grant, Pendleton, and Owen Counties said that one of the most important projects is the \$1,500,000 project for the design phase for reconstruction of Highway 22 in Owen County. This project, which is in the Six-Year Highway Plan, is important for safety reasons and for economic development in Owen and Pendleton Counties. Owen County is the only county in Kentucky that does not have an interstate or railroad within its borders, thus making it almost impossible for that county to compete for economic development projects. The Owen County representative noted that 62 percent of Owen County's workforce travels out of the county to work.

Other major highway concerns are the widening of US 27 to Falmouth; and US 42 in Carroll County, which has more industrial jobs per capita than any other county in the state. The North American Steel Plant has more than 1,800 trucks per week traveling over substandard infrastructure.

Officials from the Transportation Committee for the Northern Kentucky Chamber of Commerce discussed infrastructure concerns on the Brent Spence Bridge. Boone

County was named as one of the top-20 growth counties in the nation, with other northern Kentucky counties not far behind. The Brent Spence Bridge was built in 1962 to accommodate an estimated 80,000 vehicles daily. Structural improvements on the bridge were done in 1985 and 1998 and increased vehicle capacity to 135,000 daily. The bridge currently handles more than 170,000 vehicles daily and has become obsolete and dangerous. The annual crash rate on the Brent Spence Bridge is 750 percent higher than the annual crash rate on Kentucky's interstates.

KYTC officials presented a cost analysis that showed construction costs ranging from \$2-\$3 billion. Kentucky's share of the costs would be \$1.14-\$1.65 billion. Ohio's share would be \$950 million to \$1.38 billion since Kentucky's boundary encompasses most of the Ohio River. The Northern Kentucky Chamber of Commerce urged the Transportation Committee and the Kentucky General Assembly to find a way to improve or replace the Brent Spence Bridge, either by normal channels or by bold and innovative means.

A KYTC official presented an overview of northern Kentucky projects, the 2007 highway program, and the bridge inspection and maintenance program. He said that 2006 represented a record KYTC construction year, with \$1.06 billion in new construction contracts. For year-to-date in 2007, KYTC has equaled the 2006 record. Project authorizations for northern Kentucky in the Six-Year Highway Plan have increased from \$350 million in 2000 to \$480 million in 2006. Contracts awarded for District 6 have also increased from \$280 in years 2000-2003 to \$478 in years 2004 to the present.

Under the governor's direction, KYTC conducted new field inspections of structurally deficient steel truss bridges to ensure their safety. Cabinet officials said KYTC is continuing to coordinate with the Federal Highway Administration based upon the ongoing investigation of the Minneapolis bridge collapse. Kentucky has 14,067 bridges, of which 8,998 are owned by the state. The number of structurally deficient bridges is 1,356 (644 owned by the state), and the number of functionally obsolete bridges in Kentucky is 2,928 (1,955 owned by the state).

The federal bridge program allows for the replacement of approximately 30 bridges per year, and the KYTC Bridge Maintenance Budget contains \$20 million annually for inspections and routine bridge maintenance. The federal program and KYTC's Bridge Maintenance Budget together do not adequately address the state's concern over deficient and obsolete bridges.

At the October 2 meeting, held at Pine Mountain State Park in Pineville, the committee heard testimony from judges/executive from District 11 (Bell, Clay, Harlan, Jackson, Knott, Laurel, Leslie, and Whitley Counties). Spokespersons testified that most of Bell County's road system, like many of the roads in District 11, were in dire need of resurfacing and widening. The main problem was the oil, gas, and logging industries that operate trucks and equipment larger than most of the county's roads can handle. Road bonds are necessary for smaller counties that do not have sufficient revenue base.

Harlan County has 11 of the state's 15 highest peaks, which costs the state and county considerably more money in developing and maintaining roads. There are only 3 miles of four-lane highway in Harlan County. The county has several priority projects, including the straightening of US 119 for safety reasons.

Jackson County's unemployment rate is 12 percent. There are no airports or railroads within its boundaries and there is little industry in the county. KY 30 and US 421 are narrow, crooked, and difficult to negotiate, especially when meeting large trucks. Both need to be widened and straightened.

Laurel County representatives testified that the county had 573 miles of county roads that are difficult to maintain. Highway 699 needs 6 to 8 miles of guardrail, with the rest of the road system badly needing blacktop.

Whitley County is the only county in Kentucky that still has a gravel highway. Its road system is in need of widening and resurfacing.

Officials from KYTC gave an overview of projects scheduled or completed in District 11. To date in 2007, throughout the state, KYTC has exceeded the record total from 2006 with \$1.3 billion in new highway contracts awarded with three months left in 2007.

Rep. Gray gave the committee a brief overview of his recent meeting with representatives from Missouri. Missouri officials are interested in building a bridge between Missouri and Kentucky.

The committee held its last meeting on November 8. A representative of Click, Inc. Transportation Safety Technology of Southern Pines, North Carolina, discussed the pros and cons of motor vehicle event data records (EDRs). According to the National Safety Council, motor vehicle-related injury and death is the nation's largest public health problem. According to the World Health Organization, globally, more than 1 million people die each year from automobile accidents. During 2006, there were approximately 6 million auto crashes involving more than 23 million people, with one in every 13 crashes occurring in America. Kentucky's 2005 information indicates that there were 128,685 crashes with 985 fatalities. Kentucky has more than 2.93 million licensed drivers driving over 80,000 miles of Kentucky public roads. EDRs are installed in a motor vehicle to record technical vehicle and occupant-based information for a brief period of time (i.e. seconds, not minutes) before, during, and after a crash. This information can include pre-crash vehicle dynamics and system status, driver inputs, vehicle crash signature and restraint usage, and post-crash data such as activation of an automatic collision notification system.

The objective of EDR data is to increase the safety of surface transportation systems. It can aid in regulatory initiatives, alleged defect investigations, and litigation cases. These devices can also be helpful in gathering accurate statistics, such as usage of seat belts.

California was the first state to enact legislation (in 2004) requiring manufacturers to disclose to customers whether EDRs are installed in their vehicles. That legislation also prohibits download of that data without the owner's permission or a court order. As of 2007, 12 states have similar laws.

In the long run, EDR usage will reduce injury and save lives because of the technology it offers in retrieving, gathering, and storing objective data that can improve highway efficiency, mobility, productivity, and environmental quality.

Despite the obvious safety benefits of EDRs, their use has not been without controversy. Some issues include ownership of the data; privacy; recoverability and access of data; use, misuse, and mischief of data; credibility and disclosure of the data; and consumer protection and acceptance of the data. Some of the privacy and legal questions regarding EDRs are whether the federal government has the regulatory authority to mandate the use and collection of EDR data, whether the federal government can require manufacturers to install such EDRs, and whether individual state departments of transportation will be permitted to include information in their own state databases.

It has been determined that the federal government may require the installation of devices that demonstrably improve highway safety or advance some other significant policy interest.

The executive director of the Office of Budget and Fiscal Management in the Transportation Cabinet updated the committee on the status of the state's Road Fund. The first quarter of FY 2008 shows a 7.7 percent increase over the first quarter in FY 2007. The motor fuels and motor vehicle usage for the first quarter in FY 2008 were \$326.7 million, as opposed to \$303.3 million in the first quarter of FY 2007.

Road Fund revenues, according to an October 15 estimate, show FY 2008 with a 4.7 percent growth rate, FY 2009 with a 4.8 percent growth rate, and FY 2010 with a 5.7 percent growth rate. The cabinet official presented information on the gasoline tax (cents per gallon) for Kentucky and its surrounding states: Kentucky 21 cents, Missouri 17.6 cents, Illinois 34 cents, Indiana 28.9 cents, Ohio 28 cents, West Virginia 31.4 cents, Virginia 18.1 cents, and Tennessee 21.4 cents. Because of the variable nature of Kentucky's Motor Fuels Tax, Kentucky's gasoline tax rate of 21 cents has been estimated to increase to 24 cents in fiscal years 2008 through 2010.

Representatives from the Department of Vehicle Regulation gave the committee an update on the changes to the automobile titling process. The old titling process, as late as June 2007, took anywhere from 23 to 32 days for an individual to receive a new title. With new procedures now in place as of the beginning of November 2007, the titling process takes about 15 days before that individual receives a new title. Besides the availability of employees discussed at the committee's June 5 meeting, additional elements that may hold up the title turnaround time are an incorrect address, verification discrepancy that results in returning the application back to the county clerk, out-of-state transfer vehicles without a sheriff's inspection, incorrect vehicle identification number,

and one signature when two are required. However, these discrepancies occur in only about 5 percent of all the applications the cabinet receives.

A representative from the Department of Aviation in the Transportation Cabinet discussed aviation needs and the Aviation Six-Year Plan. He said that aviation offers economic development, emergency medical support, disaster assistance, tourism, and recreation throughout Kentucky. The department also is involved in a new project with the Department of Education. During the first two summers of this project, more than 200 teachers had been trained to use aviation to teach math and science. The department won a National Aviation Education Award for this initiative. The Experimental Aircraft Association AeroScholars Program offers online courses in aviation for high school students (via Utah Valley State University) and a college credit/private pilot written exam.

Major aviation projects in 2007 included the widening or extending 11 of the smaller airport runways throughout the state. The department's six-year plan is in the process of updating terminal hangers in 13 airports, fuel systems at 9 airports, maintenance projects at 6 airports, and renovating terminals at 15 airports.

There have been four newly opened airports: Williamsburg-Whitely County Airport, Marion-Crittenden County Airport, Morehead-Rowan County Airport, and the Hancock County Airport. There is the potential for an additional 8 new airports if funding becomes available in the upcoming years. The state would be responsible for \$137 million, with the federal government adding an additional \$24 million for the projects. The eight potential new airports would be in the following counties: Fayette; Casey; Letcher County; one encompassed in Clinton and Cumberland Counties; Pendleton County; Spencer County; Tri-County (Gallatin, Owen, and Carroll Counties); and Oldham County.

**Report of the 2007
Land Stewardship and Conservation Task Force**

**Sen. Charlie Borders, Co-Chair
Rep. Robin Webb, Co-Chair**

Hugh Archer
Juva Barber
Steven Coleman
Jerry Deaton
Doug Doerrfeld
Don Dott
Jon Gassett
Teresa Hill

Laura Knoth
Greg Kuhn
Bill Martin
Jerry Miller
Duane Murner
Gary Verst
Bruce Williams
Ronnie Wells

LRC Staff: Hank Marks, John Scott, Mark Mitchell, Matt Trebelhorn, and
Katie Carney

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Land Stewardship and Conservation Task Force

Jurisdiction: House Concurrent Resolution 120 from the 2006 Regular Session established the 18-member task force to study the Commonwealth's strategy for the protection of natural areas, farmlands, habitats, and forests; to produce findings and recommendations to be used in creating a comprehensive land strategy; to review the state's existing land preservation programs and their missions, interactions, funding sources, and methods for prioritizing projects; to review other states' land conservation programs and funding sources; to conduct a statewide assessment of potential areas and acreage that may be secured from willing participants; to conduct an assessment of the sources and levels of funding needed to sustain a long-range plan.

Task Force Activity

During the 2007 Interim, the Land Stewardship and Conservation Task Force held three meetings.

Its first meeting was held on January 23. At that time, the task force heard testimony from six major Kentucky organizations and agencies regarding funding and programs for securing access, conservation, and preservation of lands in the Commonwealth. This meeting detailed the funding sources of the Heritage Land Conservation Trust Fund and its role in financing land conservation in Kentucky.

The second meeting was held on April 24. The task force received presentations from representatives of two programs in North Carolina and Florida that have successfully implemented comprehensive planning for land acquisition. There were also presentations from the Department of Fish and Wildlife Resources, along with a comprehensive survey and comparison of other states' land protection programs and funding.

At its last meeting on June 6, the task force discussed funding and taxation issues and recommendations for future policies on land access, conservation, and preservation. At that meeting, members also reviewed information received and made summary findings.

The final report of the Land Stewardship and Conservation Task Force will be submitted to the Legislative Research Commission for final publication.

**Report of the 2007
Short Line Railroad Revitalization Task Force**

**Sen. Brent Guthrie, Co-Chair
Rep. Brandon Spencer, Co-Chair**

Sen. Tom Buford
Sen. Ed Worley
Rep. Hubert Collins
Rep. Fred Nesler
Mike Hancock

Sarah McCann
Fred Mudge
Tony Reck
Ken Robinson

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

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Short Line Railroad Revitalization Task Force

Jurisdiction: To study the creation of a short line railroad revitalization program.

Task Force Activity

The Short Line Railroad Revitalization Task Force met three times during the 2007 Interim.

During the first meeting, held on November 8, Legislative Research Commission (LRC) staff presented an overview of railroad revitalization incentive programs in other states. Ohio uses general fund dollars to support the safety and track improvements in its charge. No dedicated tax is levied in Ohio to fund these programs, and the majority of money is spent in the safety area, such as improving safety at grade crossings. Pennsylvania's Capital Budgets program offers grants to all classes of railroads, and the Rail Freight Assistance Program gives grants of up to \$750,000 for construction and maintenance projects for Class II railroads. Tennessee levies a 6 percent tax on the purchase price of diesel fuel sold or used by a common carrier when used in the operation of locomotives or railcars for the carriage of persons or property in interstate commerce. In 2005-2006, Tennessee collected \$9.1 million from these taxes and in 2006-2007, collected \$10.7 million. It is estimated that in 2007-2008, \$11.6 million will be generated from this tax. Mississippi levies 3/4 of a cent per gallon tax on locomotive diesel fuel, with proceeds going into the Railroad Revitalization Fund. Indiana has created an Industrial Rail Service Fund, which is financed by 0.33 percent of all state gross retail, use taxes collected, and the money from the sale of rail properties owned by the state. The fund provides loans to railroads for the purchase or rehabilitation of real or personal property that will be used by the railroad in providing railroad transportation services. Kansas has a railroad loan guarantee program, rail service assistance program loan guarantee fund, and a rail service improvement program and fund to assist its rail system. Oregon has established the Short Line Credit Premium Account as an account within the Oregon Transportation Infrastructure Fund. North Carolina established a North Carolina Short Line Infrastructure Assistance Program in 2004 to assist various modes of transportation.

A task force member and representative from the Paducah and Louisville Railway, Inc. (P&L) said that short line railroads are basically Class I rail lines that had not been maintained and did not have the volume of freight necessary to meet an expected revenue adequacy of a Class I company. He said that 22 years ago, there were only 75 short lines in this country, as opposed to the 500 companies now operating throughout the nation.

He said P&L has difficulty maintaining some of its low-density lines, such as the line to Mayfield. Currently P&L does not have adequate rail business going into Mayfield, but the company does not want to abandon that branch of line.

The representative from P&L said bridges are the other problem area. Class I railroads have continued to increase their car size, but the short lines were not built for the size of cars being used today. In the last several years, car sizes have gone from a gross weight of 263,000 pounds to 286,000 pounds, which has placed a strain on antiquated rail and bridge structures.

A representative from the TransKentucky Transportation, Inc. (TTI) said that the demand for freight transportation in Kentucky and throughout the nation will grow sharply in the future. To meet this demand, rail infrastructure must also grow. Kentucky's freight railroads are investing record amounts in their systems; however, it won't be enough to take full advantage of the railroad's potential to meet transportation needs.

The representative from TTI said that tax incentives for freight rail enhancements would help bridge the funding gap by leveraging private investment and producing public benefits, including reduced highway congestion and construction costs, that would far exceed the cost of the tax incentives. In order to have a strong manufacturing base, Kentucky must have a strong, reliable rail network.

The TTI representative noted four major benefits that railroads offer to Kentucky:

- Fuel efficiency—Railroads are three times more fuel efficient than trucks;
- Less highway congestion—This lessens the costs of maintaining existing highways and the pressure to build expensive new roadways;
- Pollution—Railroads emit less nitrogen oxides and carbon dioxide than a typical truck; and
- Safety—Trucking fatality rates are four times higher than those associated with freight rail transportation.

A representative from Western Bluegrass Terminal LLC estimated that there will be 70 percent more automobile traffic volume in the year 2020. He said railways can assist states in coping with the problems resulting from such traffic increases. However, progress comes with a price tag. He said Western Bluegrass Terminal LLC, as well as other short lines, needs the state's financial support in order to meet not only today's demand but also tomorrow's rail traffic volumes.

At the task force's December 4 meeting, a representative from CSX Transportation, Inc. discussed the importance of short lines and the effects of various assistance programs on Class I railroads. CSX Transportation, a Class I rail carrier operating in Kentucky, maintains 1,700 miles of track and 3,000 grade crossings, annually handles around 900,000 carloads of freight, and employs more than 2,600 Kentuckians with a payroll of \$117 million. CSX provides transportation services to 400 industries and invested \$95 million in 2006 to maintain and upgrade its tracks in Kentucky alone.

The CSX representative said the demand for freight transportation services both in Kentucky and throughout the nation has experienced unprecedented growth over the past decade and is expected to increase in the future. Lack of space and resources to

continue to expand the nation's roadways are major reasons for this growth. He said that to meet this demand, rail infrastructure investment will have to grow. The nation's freight railroads are investing record amounts in their systems, but the amount of capital available to the railroads alone is insufficient to meet the demands placed upon the nation's rail system.

The CSX representative said railroads are much more capital intensive than other industries, spending 17 percent of revenue on capital expenditures. These rail systems are the only transportation mode that must both build and maintain their own infrastructure. He said this capital expenditure figure is five times higher than the average for U.S. manufacturers.

The CSX representative said that while a tax on diesel fuel consumption would be one option, he believed that a more desirable approach would be a tax credit system. Such a tax credit approach requires the railroads to be active partners in expansion and safety projects. Other states that have addressed this issue in recent years have chosen a tax credit system. He said CSX strongly encourages the task force to recommend a tax credit program that would help ensure that the state's rail infrastructure remains strong.

A representative for Norfolk Southern Corporation also discussed the importance of short lines on Class I railroads. He said that Norfolk, which is about one-third the size of CSX in Kentucky, operates 600 grade crossings and spends approximately \$500,000 yearly to maintain these crossings. He noted that any incentives would be welcome, especially those incentives addressing grade crossings. He also stated that a tax incentive program would be a more desirable approach.

Sen. Worley asked why Class I rail systems do not provide personal rail services. The representative from Norfolk Southern Corporation said that the Class I railroads have neither the personnel nor resources to provide such services. He stated that the Class II and III rail systems can more adequately provide these services. A task force member, who represents P&L, stated that a used locomotive in good operating condition will cost Paducah and Louisville Railway around \$300,000, as compared to new locomotive costing a Class I system around \$1.8 million. He also said that short line locomotives do not require the speed nor weight hauling capabilities as do the Class I type locomotives.

A task force member said that according to the Cabinet for Economic Development's records, no business interested in locating in Kentucky has been lost due to the lack of a rail system nearby.

Rep. Nesler discussed his 2006 Regular Session House Bill 539, a bill that was unsuccessful during the 2006 Session. His bill attempted to address three major components: short line rail improvements, grade crossings, and rail expansion for energy products. The bill offered a tax credit of 50 percent of the cost of line maintenance or improvement to Class II and III railroads up to \$3,500 per track mile in any given year; a tax credit of 25 percent of the cost of grade crossing improvements to all railroads; and a tax credit of 25 percent of the cost of expansion for energy products to all railroads. The

total statewide tax credit for all railroads for the grade crossing program and the energy program are capped at \$1 million each per year.

The task force members discussed drafting and prefilng a proposed bill as the task force's recommendation to the Legislative Research Commission. However, Sen. Worley raised concerns that making such a specific tax incentive cap recommendation would limit future legislative negotiations. Therefore, no specific legislation was proposed.

Task force chairman Sen. Guthrie asked staff to draft legislation parallel to Rep. Nesler's House Bill 539, with whereas clauses outlining the importance of freight rail to the Commonwealth. Staff were also directed to draft a second piece of legislation identical to the first but eliminating all financial caps.

During the task force's December 13 meeting, the members discussed tax credit bills prepared under the chairman's direction. Members also reviewed a draft of a memorandum outlining the findings of the task force and a recommendation to the General Assembly to pass financial incentives for short line railroads that should, at the very least, mirror current federal tax credit legislation.

The task force unanimously adopted the memorandum as its final report.

**Report of the 2007
Administrative Regulation Review Subcommittee**

**Sen. Richard “Dick” Roeding, Co-Chair
Rep. Robert R. Damron, Co-Chair**

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

Rep. Danny Ford
Rep. Jimmie Lee
Rep. Ron Weston

LRC Staff: Dave Nicholas, Emily Caudill, Donna Little, Kara Daniel, Emily Harkenrider, Laura Milam, Jennifer Beeler, Laura Napier, and Ellen Steinberg

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Administrative Regulation Review Subcommittee

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

Subcommittee Activity

KRS Chapter 13A established the subcommittee as a permanent subcommittee of the Legislative Research Commission. The subcommittee meets monthly and reviews approximately 60 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 2007 through November 15, 2007, executive branch agencies filed 61 emergency administrative regulations (a decrease of 22 percent over 2005 and of 49 percent since 2006) and 813 ordinary administrative regulations (an increase of 73 percent over 2005 and 21 percent since 2006). Of the ordinary administrative regulations filed, 164 were new (an increase of 73 percent over 2005 and 18 percent since 2006), 555 were amendments to existing administrative regulations (an increase of 69 percent over 2005 and 30 percent since 2006), and 94 were amended after comments (an increase of 100 percent over 2005, but an 11 percent decrease since 2006).

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, three were found deficient (with all findings of deficiency subsequently removed by the subcommittee upon further amendments to the administrative regulations), 537 were amended to conform with KRS Chapter 13A and other appropriate statutes (an increase of 100 percent over 2005 and 28 percent since 2006), and 77 were approved as submitted by the agency (an increase of 5 percent over 2005, but a decrease of 1 percent since 2006). Additionally, two administrative regulations expired (for failure to meet statutory deadlines), and a total of 41 administrative regulations were withdrawn by the agency during this period. (These

totals do not include the 163 administrative regulations scheduled for review during the subcommittee's December 2007 or January 2008 meetings.)

In June, subcommittee staff presented its "The Administrative Regulations Process from Start to Finish" as part of the Legislative Research Commission's continuing legal education seminar. In August, the subcommittee staff and the regulations compiler conducted a training session for representatives of 30 executive branch agencies, including the Finance and Administration Cabinet, the Environmental and Public Protection Cabinet, the Department of Education, and the Cabinet for Health and Family Services. The three-hour training session focused on the administrative regulations process and the requirements for drafting and formatting administrative regulations. Approximately 90 representatives of those agencies participated in this training. The same material was also presented informally on many occasions to small groups of two to five persons from executive branch agencies as requested by the agencies. The August training session was recorded on DVD and is available to agencies that wish to have an independent refresher course on the administrative regulations process.

In August 2007, the Legislative Research Commission published the Administrative Regulations Service of Kentucky, which contains all administrative regulations in effect as of June 15 of that year.

**Report of the 2007
Capital Planning Advisory Board**

**Sen. Jack Westwood, Co-Chair
Rep. Reginald Meeks, Co-Chair**

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

John Hicks
William H. Hintze, Jr.
William H. May III
Jason M. Nemes
Doug Teague
Laurel True
Garlan Vanhook

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

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Capital Planning Advisory Board

Jurisdiction: The 1990 General Assembly established the Capital Planning Advisory Board of the Kentucky General Assembly, with 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 2007 Regular Session, the Capital Planning Advisory Board has held seven meetings.

On May 9, the board heard a presentation on the recently completed postsecondary facility condition assessment and space study from representatives of the Council on Postsecondary Education and its consultants. The board also discussed public records storage and how to adequately and appropriately deal with the requirements for preserving and maintaining the public records of Kentucky's state and local governments with the state librarian and commissioner of the Kentucky Department for Libraries and Archives.

On June 14, the board began its review of the 2008-2014 agency capital plans. In addition to receiving a staff overview of the planning process, the board heard presentations from agency representatives on the plans submitted by the Economic Development Cabinet, the Governor's Office for Local Development, the School Facilities Construction Commission, and the Kentucky River Authority.

At the third meeting, which was held on July 20, the board continued its review of the agency plan submissions. Presentations were made by representatives from the Department of Agriculture, Transportation Cabinet, Department of Military Affairs, Department of Veterans Affairs, Department of Education, Education Cabinet, Council on Postsecondary Education, and the nine public postsecondary education institutions.

A fourth meeting was held on August 17. That agenda included the presentation of reports from the Council on Postsecondary Education regarding projects and capital issues related to the postsecondary institutions and from the Commonwealth Office of Technology regarding information technology projects submitted in the agency plans and related issues. The capital plan for the judicial branch was also presented.

The board's fifth meeting was held on September 14 and included presentations on additional agency capital plans from officials of the Commerce, Finance and Administration, Health and Family Services, Justice and Public Safety, and

Environmental and Public Protection Cabinets. The board also received a staff report updating the status of Kentucky's bonded indebtedness and discussed policy recommendations to be included in the *2008-2014 Statewide Capital Improvements Plan*.

On October 3, the board continued working on the policy and project recommendations to be included in the *2008-2014 Statewide Capital Improvements Plan*.

The seventh meeting was held in the State Office Building Auditorium on October 22. The board gave final approval to the *2008-2014 Statewide Capital Improvements Plan* for submission to the heads of the three branches of government. That report includes both policy recommendations on various capital-related issues and specific project recommendations. The policy recommendations address the following issues:

- State Agency Maintenance Pools
- Capital Renewal and Renovation for State Agency Facilities
- Capital Renewal and Renovation for Postsecondary Education Facilities
- Assessments of Facility Condition and Maintenance Needs
- Study of Kentucky's Debt Policies and Practices
- Budget Reserve Trust Fund
- Alternatives to Incarceration

The project recommendations address two categories of capital projects:

- Projects To be Financed from State Funds
- Projects To Be Financed from Other than State Funds

After a presentation by the commissioner of the Finance and Administration Cabinet's Department for Facilities and Support Services concerning renovation of the State Office Building and the long-range plan for housing state agencies in the Frankfort area (KRS 45.425), members were provided a tour of the building

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. Jim Wayne

Rep. Steven Rudy

LRC Staff: Nancy Osborne, Shawn Bowen, Pat Ingram, Kristi Culpepper, and
Lesa Prewitt

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Capital Projects and Bond Oversight Committee

Jurisdiction: The committee is a permanent subcommittee of the Legislative Research Commission and is charged with overseeing the expenditure of funds for state capital projects; the allotment of funds from the Emergency Repair, Maintenance, and Replacement Account; the allotment of funds from the Capital Construction and Equipment Purchase Contingency Account; the allotment of funds from the Statewide Deferred Maintenance Fund; the state's acquisition of capital assets, including the lease of real property; the issuance of bonds by the Commonwealth and related statutory entities; 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, 2006, and October 31, 2007. During this period, the committee met 12 times. Eleven of the committee's meetings were held in Frankfort in the Capitol Annex. In October, the committee held its meeting at the Kentucky Horse Park (KHP) in Lexington. During the meeting, the committee received a briefing by the KHP executive director and afterwards toured the KHP grounds and viewed projects that were under construction.

In February, Northern Kentucky University elected to begin managing its own capital construction program pursuant to KRS Chapter 164A, joining four other postsecondary institutions that have previously made such an election: University of Kentucky (1990), University of Louisville (1992), Murray State University (1998), and Western Kentucky University (2003). These universities provide reports directly to the committee. Capital projects at the remaining postsecondary institutions—Eastern Kentucky University, Kentucky State University, Morehead State University, and the Kentucky Community and Technical College System—are managed through the Finance and Administration Cabinet, which reports to the committee on their behalf.

The committee reviewed numerous agency reports and requests concerning capital projects and bond issues between November 1, 2006, and October 31, 2007. A summary of those reviews follows.

Review of Unbudgeted Capital Projects

The committee approved seven new 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. Scope increases for two unbudgeted projects that had been previously reported were also approved. 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—Construct Joint Operations Counter Drug Program (\$1,922,000 federal funds. Also approved was a scope increase of \$278,412 federal funds, for a revised scope of \$2,200,712); Wendell Ford Regional Training Center - Phase IV (\$707,000 federal funds scope increase for this unbudgeted project initiated in 2004 for a revised scope of \$12,381,000).

Kentucky State Police—Upgrade Statewide Communications Systems (\$990,000 federal funds).

Kentucky State Nature Preserves—Shorts Goldenrod State Nature Preserve and Addition to Blue Licks State Park-land acquisition (\$550,000 federal funds, \$65,000 restricted funds).

Justice and Public Safety Cabinet—Electronic Grants Management System (\$589,700 federal funds, \$252,800 restricted funds).

Kentucky State University—Land Grant Farm Facility Welcome/Conference Center (\$2,421,300 federal funds scope increase for this unbudgeted project initiated in 2005, for a revised scope of \$4,000,000); Purchase Bus (\$400,000 federal funds).

Murray State University—Replace Stewart Stadium Turf (\$600,000 restricted funds, \$600,000 private funds).

University of Kentucky—Construct Equine Isolation Facility (\$411,000 restricted funds, \$689,000 private funds).

Review of Budgeted Capital Projects

Consolidation of budgeted capital project. The University of Kentucky reported consolidation of the Biological/Pharmaceutical Complex Building project (\$135,292,000), Expand Chemistry-Physics Building project (\$5,000,000), Fume Hoods - TH Morgan Biological Science Building project (\$3,188,000), and the Enterprise Resource Planning System project (\$60,000,000). No scope increases were involved for these projects.

Requests for scope increases. The committee approved 13 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:

Western Kentucky University—Student Health Services Building (\$750,000 restricted funds; revised scope \$5,750,000); Student Publications Facility (\$600,000 private funds; revised scope \$6,600,000); South Campus-Parking and Dining Improvements (\$1,550,000 restricted funds; revised scope \$8,550,000); and Renovate Academic/Athletic Stadium (\$11,781,000 restricted and private funds; revised scope \$49,781,000).

Northern Kentucky University—Acquire New Residence Hall (\$6,150,000 restricted and private funds; revised scope \$16,500,000); Construct Parking Garage (\$495,000 surplus bond funds; revised scope \$15,895,000); and Regional Special Events Center (\$4,614,000 restricted and private funds; revised scope \$68,900,000).

Morehead State University—Construct Center for Health, Education, and Research (\$1,500,000 federal funds; revised scope \$26,000,000); and Residence Hall Renovation (\$400,000 restricted funds; revised scope \$5,400,000).

Murray State University—New Science Complex (\$2,650,000 restricted and private funds; revised scope \$17,650,000).

Veterans Administration—Alzheimer's/General Care Unit, West Kentucky Veterans Center (\$3,263,000 federal funds; revised scope \$5,020,000).

Commerce Cabinet, Fish and Wildlife Resources—Minor Clark Hatchery project (\$1,000,000 restricted funds; revised scope \$2,000,000).

Military Affairs—Emergency Operations Center-HVAC Upgrade (\$22,512 federal funds; revised scope \$679,512).

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, allocations totaling \$6,571,377 were reviewed and approved by the committee. Three allocations were approved in April 2007: \$45,000 for Kentucky Educational Television (KET) to fund a cost overrun on the KET Replace Roof at Network Center project; \$215,000 for the Department of Parks' Pennyrile Forest State Park Golf Course Renovation project to repair a blue-line stream that was inadvertently damaged when the new nine holes were built in 2003; and \$551,377 to the Finance and Administration Cabinet's Department for Facilities and Support Services to fund a series of moves by state agencies from privately owned leased space to state-owned space. In June, the committee approved a \$5,760,000 Contingency Account allocation to fund a

cost overrun on the Kentucky Horse Park (KHP) Indoor Arena project. This allocation represents the statutory maximum amount allowable (15 percent of the project's scope), and, historically, it is the largest Contingency Account allocation.

Emergency Repair, Maintenance, and Replacement Account. The committee reviewed two emergency allocations totaling \$1,957,000. 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 March 2007, a \$1,405,100 allocation was made to assist in funding the State Fair Board Replace Roof for Pavilion project. The revised project scope was \$2,862,800. In October 2007, an allocation of \$551,900 was made to fund the Morehead State University Temporary Boiler Replacement project. 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. Reports were also received under a new program pool, the University Major Items of Equipment Pools. The committee received reports of allotments of the \$35 million Parks Renovation Pool (2004-06 budget) and the \$60 million Parks Development Pool (2006-08).

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 November 2006, the University of Louisville reported a long-term ground lease for a Clinical Practice Building. In July 2007, the Finance and Administration Cabinet reported on behalf of the Commerce Cabinet's Department of Parks a long-term lease to Dale Hollow State Park Marina, LLC, to construct a marina at Dale Hollow State Park. Over the course of several meetings in 2007, the committee discussed the private development of amenities such as lodges and golf courses at various state parks. In June 2007, the committee requested that the Interim Joint Committee on State Government consider reviewing the topic of private development on state property given the emergence of some important public policy questions, including recent Department of Labor determinations relating to prevailing wage requirements, application of statutes governing privatization contracts, and concerns associated with the ability of a private entity to adequately operate or maintain a significant capital asset over the long term.

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 in July by the University of Louisville for its Trager Field Hockey Stadium project and by the Finance and Administration Cabinet for the Kentucky Educational Television Replace Master Control and Production Infrastructure project in September.

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 University of Kentucky for its Biological/Pharmaceutical Complex in December 2006 and by the Finance and Administration Cabinet for the Kentucky Community and Technical College System's Ashland Community and Technical College Tech Drive Campus in March 2007.

Two energy savings performance contracts (ESPCs) were 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 March, the cabinet reported two ESPCs with 12-year terms: \$299,532 for the Louisville Office for Employment and Training, and \$2,684,227 for Western State Hospital.

Review of Bond-funded Loan/Grant Programs

Economic Development Bond Projects. The committee reviewed and approved eight grants, representing \$4,600,000 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 eight projects funded during the reporting period and the amount of EDB assistance were City of Winchester, Sekisui S-LEC America LLC (\$200,000); Hart County Fiscal Court, Sister Schubert's Homemade Rolls (\$100,000); Pulaski County Fiscal Court, Aspen Compressor LLC (\$500,000); Russell County Fiscal Court, Bruss North America, Inc. (\$150,000); Graves County Fiscal Court, Purchase Area Industrial Authority (\$2,500,000); Graves County Fiscal Court, Progress Rail Services Corporation (\$100,000); City of Bardstown, NPR Manufacturing Kentucky LLC (\$300,000); and Louisville/Jefferson County Metro Government, BAE Systems Land and Armament LP (\$750,000). The grant for the Purchase Area Regional Industrial Authority was included as a line item in the 2006-08 budget.

The committee also received a report of EDB job creation and job maintenance requirements for previously approved projects. Of the projects currently monitored by the

Cabinet for Economic Development, four are in compliance with job creation and maintenance requirements. Two projects are not in compliance and have made or will be required to make annual payments for those jobs to the county in which they are located.

The Cabinet for Economic Development's Department of Commercialization and Innovation reported to the committee 10 allocations totaling \$10,455,000 from the New Economy High Tech Investment/Construction Pool. These forgivable loans are available for high-tech companies doing business in Kentucky.

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). The committee approved seven loans totaling \$34,029,903. Two loans were approved for entities in Ohio County: the Ohio County Regional Water District and the City of Beaver Dam. Loans were also approved for the Northern Madison Sanitation District (Madison County); City of Nicholasville (Jessamine County); City of Bowling Green (Warren County); City of Falmouth (Pendleton County); and City of Whitesburg (Letcher County). The loan to the Northern Madison Sanitation District was subsequently increased by \$1,500,000.

Fund A1 (Federally Assisted Wastewater Revolving Loan Fund-Planning). A loan of \$169,500 to the City of Barlow (Ballard County) was approved to plan a new wastewater treatment plant.

Fund B (Infrastructure Revolving Fund). Six loans totaling \$3,813,151 and three grants totaling \$920,000 were approved. Two grants were approved for entities in Bath County: the City of Owingsville (\$50,000) and the Bath County Fiscal Court (\$250,000). A grant of \$620,000 to the Western Pulaski Water District (Pulaski County) was also approved.

The first loan to a broadband service provider was made to ConnectGRADD for \$1.2 million. ConnectGRADD serves Daviess, Hancock, Henderson, McLean, Ohio, Union, and Webster Counties, which comprise the Green River Area Development District in western Kentucky. Loans were also approved for the City of Owingsville (Bath County); City of Jamestown (Russell County); South Graves County Fiscal Court; and Caveland Sanitation District (Hart County).

Fund B1 (Infrastructure Revolving Fund - Planning). A grant was approved for the City of Harlan (Harlan County) to plan a new sewer collection system.

Fund C (Governmental Agencies Program Loan Fund). The committee approved a loan of \$393,250 to Mayfield Electric and Water Systems in Graves County.

Fund F (Federally Assisted Drinking Water Revolving Loan Fund). Two loans were approved totaling \$2,750,000. A loan of \$1,000,000 was approved for the Adair County Water District, and a loan of \$1,750,000 was approved for the Jessamine South Elkhorn Water District (Jessamine County).

The committee also approved a \$400,000 increase for a previously approved \$4,000,000 loan to the City of Hardinsburg (Breckinridge County).

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 eight grants for coal counties totaling \$2,452,356 and six grants from tobacco counties totaling \$1,875,000 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 40 grants from coal counties totaling \$10,935,522 and 55 grants from tobacco counties totaling \$21,087,605 from this authorization.

The 2006 Regular Session authorized 210 line-item projects for coal counties totaling \$100,955,072 and 349 line-item projects for non-coal counties totaling \$151,250,000. In this reporting period, the committee reviewed 130 grants for coal counties totaling \$52,128,976 and 229 grants from non-coal counties totaling \$96,478,243.

The 2006 Regular Session authorized appropriations from the General Fund in the amount of \$20,650,800 in fiscal year 2007 and \$8,453,000 in FY 2008 and state bond funds of \$75,658,000 for Community Development Fund water and sewer projects that were transferred by executive order to KIA for administrative purposes. In the reporting period, the committee reviewed three grants from the General Fund totaling \$500,000 and three grants from bond funds totaling \$3,160,000.

The committee also reviewed a report from KIA's arbitrage attorney regarding revenue bonds issued by KIA in 2001. The report indicated that KIA had not accrued any arbitrage rebate or yield restriction liabilities with respect to the bond issue and does not need to make an arbitrage-related payment to the United States Treasury Department. The committee has requested to be updated on KIA's investment of unspent bond proceeds.

Review of Bond Issues and Financing Agreements

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

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. For FY 2008, the amount of gross proceeds from the sale of TRANs was \$352,614,500.

The committee continued to review debt issued under ALCo's 2005 General Fund Project Notes program. The program provides interim financing across budget cycles to projects authorized for General Fund-supported bond funds as the projects are ready to move forward. The maximum amount to be outstanding at a given time is \$950,000,000. The notes are issued in tranches, or segments of the total amount that may be outstanding under the program. In the reporting period, the committee reviewed the issuance of two tranches of \$100 million each.

The committee also approved \$243,080,000 of ALCo Floating Rate Notes. ALCo had not previously issued debt under this structure and was among the first municipal debt issuers in the country to do so. The interest owed on the debt is 67 percent of the London Inter-Bank Offered Rate (LIBOR), a short-term variable rate, plus a spread. ALCo also entered into an interest rate swap agreement in conjunction with the issuance of the notes, whereby the commission received 67 percent of LIBOR plus the spread from its counterparty and paid a fixed interest rate in return. The variable rate components of the debt and the swap agreement cancel each other out, such that the net effect of this transaction is that it simulates a traditional fixed-rate bond issue.

The committee also approved two debt programs providing funds for transportation projects. The committee approved the issuance of up to \$350,000,000 of 2007 Road Fund Project Notes, and an initial tranche of \$150,000,000 was sold. This Project Notes program provides interim financing for projects that will ultimately receive permanent financing from Road Fund-supported bonds issued by the Turnpike Authority of Kentucky.

The committee also approved the issuance of \$277,910,000 ALCo Project Notes, 2007 Federal Highway Trust Fund First Series. This issue provides financing for the Grant Anticipation Revenue Vehicle (GARVEE) bonds authorized in the 2006-08 budget to widen Interstates 65, 75, and 64. The required debt service will be paid from the Commonwealth's federal highway dollars. This issue was the state's second GARVEE bond issue.

State Property and Buildings Commission. The committee approved two bond issues totaling \$546,785,760 providing permanent, General Fund-supported financing for projects authorized in the current and previous budgets.

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). All of Kentucky's state universities have now issued debt under the new general receipts structures.

The committee approved eight bond issues for postsecondary institutions during the reporting period totaling \$183,351,411. The committee approved two Western Kentucky University bond issues totaling \$53,180,000. Other bond issues approved were University of Louisville \$41,040,000; Kentucky State University \$6,556,411; Northern Kentucky University \$48,660,000; Murray State University \$14,550,000; Eastern Kentucky University \$12,920,000; and Morehead State University \$6,445,000.

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. Two KEDFA issues were approved: \$8,840,000 for Adventist Health System and \$14,830,000 for Christian Care Communities.

Kentucky Housing Corporation. The committee approved six new issues of single-family housing revenue bonds totaling \$457.4 million. Also approved were seven conduit issues for multifamily housing projects totaling \$43.3 million. Four of the projects were in Jefferson County and the other three were in Campbell, Hopkins, and Barren Counties.

In May, the committee approved a modified approval process for the corporation whereby the committee gives the corporation approval for aggregate "not-to-exceed" amounts as opposed to on an issue-by-issue basis. The committee continues to receive follow-up reports on individual issues after the bonds have been sold.

Kentucky Higher Education Student Loan Corporation. One new issue totaling \$250 million to provide money for student loans was approved.

School district bond issues with School Facilities Construction Commission debt service participation. Eighty-one issues totaling \$579,655,000 were approved.

School district bond issues with 100 percent locally funded debt service.
Thirty-six issues totaling \$275,380,302 were approved.

According to the semiannual report of the Asset/Liability Commission, as of December 31, 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. In January 2007, Standard and Poor's raised its outlook on the state's issuer credit rating from stable to positive. In February, Moody's also raised its outlook on the state's issuer credit rating from negative to stable.

Review of State Leases

During the reporting period, the committee reviewed 18 state agency lease modifications. Eight of these lease modifications increased annual rental payments by a total of \$105,108 to cover the cost of state agency-requested improvements, another eight increased the amount of leased space, and two decreased the amount of leased space.

The committee approved the award by the Finance and Administration Cabinet of five renewal leases for office space in Butler, Franklin, Grayson, and Jefferson Counties with rent increases. These renewals represent \$65,662 in increased annual rental costs.

The committee approved three new leases for office space during the reporting period: the Commonwealth Office of Technology (\$101,728) and the Personnel Cabinet Deferred Compensation Authority (\$111,274), both in Franklin County; and the Department of Military Affairs in Kenton County (\$368,963).

The committee also approved a new lease for a Fuels/Pesticides Testing Laboratory for the Department of Agriculture in Franklin County. The lease for 10,640 square feet (5,818 dedicated lab space; 4,822 office/support space) will have an annual cost of \$199,800. The lab will test motor fuel for quality and octane levels to assure quality in motor fuels. In addition to motor fuel, the lab will be able to test other highly volatile products including antifreeze, motor oil, automatic transmission fluid, grease, gear oil, and eventually propane. This lease procurement was atypical because the state had no previous experience in operating a fuels testing lab, the Department for Facilities and Support Services' Division of Engineering contracted with a consultant to develop specifications for the space. The facility will be constructed by a private developer and is scheduled for completion by January 2008.

Also reviewed by the committee during the reporting period were two new emergency leases. The Environmental and Public Protection Cabinet in Franklin County obtained emergency replacement space after experiencing numerous problems with flooding and air quality issues over an extended period of time. The lease has an annual cost of \$185,408. The Cabinet for Health and Family Services' Department of Community Based Services in Elliott County obtained emergency replacement space

after the agency's building was destroyed by fire. This lease has an annual cost of \$22,800.

During the reporting period, the committee approved five new leases with a total annual cost of \$658,657 for the University of Kentucky: College of Pharmacy (\$137,106); Behavioral Science Department (\$129,924); UK Healthcare (\$138,281); and the Division of Patient Accounts (\$138,296 and \$115,050).

In May 2007, the committee received a report from the Office of the Auditor of Public Accounts regarding its review of a lease awarded to the Department of Corrections' Division of Probation and Parole in Campbell County. This lease was awarded through an emergency lease procurement and was reported to the committee in June 2006. After award of the contract, one of the competing vendors filed a lawsuit in U.S. District Court seeking an injunction, claiming the state violated its civil rights in the way the lease was procured.

At the request of the committee, the Office of the Auditor of Public Accounts reviewed the methodology used to award the lease and found that the Division of Real Properties complied with state leasing statutes in the award of the lease. The auditor did however recommend various changes that may help clarify the process the division uses to award leases.

The committee also reviewed three emergency leases for UK related to its acquisition of Good Samaritan Hospital. Two of the three leases will provide space to house outpatient medical and diagnostic facilities at a cost of \$447,734 annually, and one lease will provide space for parking at a cost of \$32,880 annually. These pre-existing leases were originally held by Good Samaritan, but after review, UK opted to maintain them due to the critical service each provided.

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 Gallatin County Judicial Center. 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 Gallatin County court project was authorized by the 2005 General Assembly at a scope of \$2,229,000 and provided for a two-story addition to the existing county courthouse. The project's scope was developed in AOC's 2002-04 budget request and not adjusted for inflation or commodities price increases before being requested in 2005. In November 2006, the committee approved increasing the scope of the annual use allowance for the facility from \$199,000 to \$228,850 (15 percent) to allow AOC to address the higher-than-anticipated base bid for the building addition.

**Report of the 2007
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, Lisa Moore, and Janet Oliver

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Education Assessment and Accountability Review Subcommittee

Jurisdiction: To review administrative regulations and advise the Kentucky Board of Education concerning the implementation of the state system of assessment and accountability and to provide oversight and direction to the Office of Education Accountability.

Subcommittee Activity

The subcommittee met six times during the 2007 Interim.

The subcommittee met in March to discuss 703 KAR 5:020, the Formula for Determining School Accountability. Staff of the Kentucky Department of Education explained the administrative regulation. The subcommittee heard testimony from representatives of the Family Foundation and the Jefferson County Teachers Association (JCTA). The Family Foundation believes that the regulation does not comply with statute because it does not include a statewide norm-referenced test (NRT) at the elementary level that was originally added to the Commonwealth Accountability Testing System (CATS) to inform the public and parents about how students compare to students across the nation. The representative of JCTA said that the ACT test is not designed to determine whether or not teaching and learning are occurring with Kentucky core content and urged the subcommittee to recommend that ACT items not replace the Kentucky core content items in the accountability formula. There was not a quorum, and the subcommittee held another meeting later in the month to accept the administrative regulation with technical amendments. The subcommittee members approved a motion to send a letter to the Kentucky Board of Education expressing the subcommittee's opinion that the statute has not been followed and there needs to be a statewide elementary NRT in place by the next testing cycle.

During the June meeting, the subcommittee reviewed two reports of the Office of Education Accountability (OEA). The Flexible Focus Fund program permits local school districts to reallocate funds appropriated for five state grants according to local needs in the grant program areas. OEA reviewed the allocations for the five grant areas in FY 2003 through FY 2007, examined the extent to which school districts are utilizing the funding flexibility permitted by the program, and made several recommendations. The second report, *A Compendium of State Education Rankings*, was developed by OEA to provide a convenient source of information about how Kentucky compares to other states on education indicators. Annual updates will be made to the compendium that will allow trends to be reviewed over time.

In July, the subcommittee heard testimony from the chair of the Kentucky Board of Education, the chair of the School Curriculum Assessment and Accountability Council (SCAAC), and the interim commissioner of education concerning the use of an elementary NRT in the accountability system. The chair of the state board said the board is receptive to the subcommittee's comments about the inclusion of the elementary NRT.

The chair of SCAAC and the commissioner explained that SCAAC had recommended allowing elementary schools to choose their own NRT because many schools were already doing so and they thought it would reduce testing. Via conference call, the subcommittee also heard from a contractor with the Department of Education who conducted an alignment study comparing standards in reading, math, and science with the standards in the assessment. The consultant said the results showed that the Kentucky Core Content Test (KCCT) and the ACT were partially aligned. The ACT had an adequate number of items for four of the five standards, but there is not a large number of items in data analysis and probability. He said science was not very aligned because the ACT test primarily looks at the scientific process and how students can graph and interpret graphs, while the KCCT covers more content.

At the September meeting, OEA staff presented a review of the EXPLORE and PLAN results of the tests administered to 8th and 10th graders in the fall of 2006. This analysis of one year of Kentucky's EXPLORE and PLAN scores found a substantial number of students scoring below the EXPLORE and PLAN benchmarks in each subject area tested. The members also heard from representatives of the Department of Education and the Council on Postsecondary Education who discussed the support and technical assistance being provided to schools and school districts in the development of accelerated learning as required by Senate Bill 130 (2005).

In October, the subcommittee received the 2007 CATS scores and held a discussion of the concordance process that was necessary to link the former CATS test and the current one because of substantive changes to the test. Department of Education staff also provided a progress report on the development of end-of-course exams. OEA staff presented an overview of the 2007 National Assessment of Educational Progress results.

At the November meeting, OEA staff presented a paper on *Understanding How Tax Provisions Interact with the SEEK Formula*, which was accepted by the subcommittee. Staff also provided an overview of the first chapter of the *Extended School Services (ESS) Study*. The director of OEA presented the 2008 study proposals to be done by OEA, which were accepted by the subcommittee.

The interim commissioner of education provided a status report on the 2007-2008 administration of ACT and WorkKeys required by Senate Bill 130 (2005). He reported that due to a lack of funds, the WorkKeys would not be administered this year.

**Report of the 2007
Government Contract Review Committee**

**Sen. Vernie McGaha, Co-Chair
Rep. Dennis Keene, Co-Chair**

Sen. Carol Gibson
Sen. Ernesto Scorsoni
Sen. Elizabeth Tori

Rep. Jesse Crenshaw
Rep. Brad Montell
Rep. Brent Yonts

LRC Staff: Kim M. Eisner, Matthew T. Ross, and Jennifer A. Wilson

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Government Contract Review Committee

Jurisdiction: Review of all nonexempt memoranda of agreement by and between state agencies, and review of all nonexempt personal service contracts by state agencies and by off-budget agencies that include, but are not limited to, the Kentucky Lottery Corporation, the Kentucky Housing Corporation, state universities within the Commonwealth, the Kentucky Employers' Mutual Insurance Corporation, the Kentucky Higher Education Assistance Authority, the Kentucky Student Loan Corporation, and the Kentucky Retirement Systems to examine the stated need for the service, whether the service could or should be performed by state personnel, the amount and duration of the contract or agreement, and the appropriateness of any exchange of resources or responsibilities.

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 2006-2007 fiscal year beginning July 1, 2006, and ending June 30, 2007, the committee reviewed 1,250 personal service contracts and 318 amendments to personal service

contracts. The committee also reviewed 301 personal service contracts for \$10,000 and under, which are submitted to the committee for informational purposes only.

During the 2006-2007 fiscal year, the committee reviewed 1,125 memoranda of agreement and 508 memoranda of agreement amendments. The committee also reviewed 1,108 memoranda of agreement for \$50,000 and under, which are submitted to the committee for informational purposes only.

During the 2006-2007 fiscal year, the committee reviewed 1,869 personal service contract items and 2,741 memoranda of agreement items, for a total of 4,610 items.

Since the start of the 2007-2008 fiscal year through November 16, 2007, the committee has reviewed 312 personal service contracts and 159 amendments to personal service contracts. The committee has also reviewed 178 personal service contracts for \$10,000 and under, which are submitted to the committee for informational purposes only.

Since the start of the 2007-2008 fiscal year through November 16, 2007, the committee has reviewed 425 memoranda of agreement and 324 memoranda of agreement amendments. The committee also reviewed 593 memoranda of agreement for \$50,000 and under, which are submitted to the committee for informational purposes only.

Since the start of the 2007-2008 fiscal year through November 16, 2007, the committee has reviewed 649 personal service contract items and 1,342 memoranda of agreement items, for a total of 1,991 items.

Note: These totals reflect all personal service contracts and memoranda of agreement entered into the e-mars procurement system and captured by the LRC Contract Reporting Database for fiscal year 2007-2008.

**Report of the 2007
Medicaid Oversight and Advisory Committee**

**Sen. Richard “Dick” Roeding, Co-Chair
Rep. Jimmie Lee, Co-Chair**

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

Rep. Bob DeWeese
Rep. Joni Jenkins
Rep. Brandon Spencer
Rep. David Watkins

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

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
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 2007 Interim, the Medicaid Oversight and Advisory Committee held three meetings. The committee heard testimony regarding long-term living initiatives, the working disabled program, Medicaid modernization, electronic health information initiatives, national provider number, the Passport Health Plan, hospital reimbursement, and the Kentucky Children's Health Insurance Program.

Major Issues Considered by the Committee

Long-term Living Initiatives

The secretary of the Cabinet for Health and Family Services and the commissioner of the Department for Medicaid Services provided testimony on the cabinet's long-term living initiatives. They described the cabinet's vision to use the flexibility provided under the Deficit Reduction Act to redesign long-term care services and programs in both the public and private sector to enable a full continuum of services to match consumer needs. Some of the initiatives are described below.

Consumer Directed Option. The secretary of the Cabinet for Health and Family Services testified that the Consumer Directed Option (CDO) program provides consumers with greater control over their nonmedical services with the ability to stay in their homes and communities. The commissioner of the Department for Medicaid Services reported that the CDO program began in 2004 with House Bill 116. The Department for Medicaid Services contracts with the Division of Aging Services to implement the program. The area agencies on aging serve as support brokers, who are responsible for assisting Medicaid recipients with budgets, treatment plans, and training. Under the Consumer Directed Option program, individuals may hire a neighbor or family member to provide their nonmedical care. The CDO is available for the home- and community-based services, supports for community living services, and the acquired brain injury services. At the time of the secretary's testimony, there were 270 enrollees in the CDO program, mostly frail and elderly and physically disabled.

The commissioner stated that a request had been submitted to the Centers for Medicare and Medicaid Services to provide goods and services under the CDO.

Self-Directed Option. The secretary of the Cabinet for Health and Family Services testified that the Self-Directed Option pilot will give greater freedom to individuals to direct their own care and will extend the scope of services beyond those

usually provided under the Consumer Directed Option. The commissioner of the Department for Medicaid Services reported that the cabinet plans to submit a 1915J waiver for self-directed options for a pilot group of 200 Kentucky Medicaid recipients.

Money Follows the Person Grant. The secretary of the Cabinet for Health and Family Services reported that the Money Follows the Person grant eliminates barriers that prevent or restrict the flexible use of Medicaid funds to enable individuals in institutions to receive supports for appropriate and necessary long-term services in the settings of their choice. The secretary announced that Kentucky was awarded a \$50 million, five-year grant from the Centers for Medicare and Medicaid Services in May 2007.

Acquired Brain Injury Waiver. The commissioner of the Department for Medicaid Services reported that the department plans to submit a 1915C waiver for individuals with acquired brain injuries, which would include residential long-term care services. The current waiver provides rehabilitation services. He noted that the money associated with the acquired brain injury waiver that was allocated by the General Assembly for the 2006-2007 fiscal year will be carried forward into the next fiscal year.

Working Disabled Program

The commissioner of the Department for Medicaid Services testified that the Ticket to Work Act of 1999 gave states the option of extending Medicaid to persons with disabilities who work. The proposed Medicaid “buy-in” program would allow disabled individuals to qualify for benefits based on their income. The disabled person could pay a premium based on income and continue to participate in the Medicaid program. The Balanced Budget Act also provides states with an option of extending Medicaid to persons with disabilities who work under certain conditions. The cabinet projected that approximately 1,000 individuals will participate in the working disabled program.

Medicaid Modernization

The secretary of the Cabinet for Health and Family Services testified on the progress of reform in the Department for Medicaid Services since 2004. He reported that, in 2004, there was a sizable deficit, an out-of-date computer system, paper identification cards, overutilization of brand name prescription drugs, limited access to data, and other problems. At that time, Kentucky envisioned a new Medicaid program that would improve the health status of Kentuckians enrolled in the program; ensure people receive the right care in the right setting, at the right time; ensure the solvency of Kentucky Medicaid for future generations; and transform Kentucky Medicaid into a 21st century health care system.

The secretary compared Kentucky’s Medicaid reform to a three-legged stool, with KyHealth Choices being in the center of the stool. The three legs of the stool were identified as improved technology, care management, and benefit management. Phase I of the modernization included building the infrastructure consisting of technology and administrative reorganization. Phase II involved implementing flexible benefit packages,

benefit design, and care management. The cabinet obtained a new Kentucky Medicaid administrative agent for better care management and pharmacy management.

The secretary identified signs that Kentucky's reform is working. He said the Medicaid budget is balanced without reducing enrollment or hurting access to care. Medicaid has been reformed from an illness model to a wellness model. The number of uninsured is down in Kentucky, and employer-sponsored health insurance is up, according to the Kaiser Family Foundation. Also, monthly pharmacy claims have been reduced and more generic prescription medications are being used. The primary reforms presented are summarized in the following paragraphs.

Medicaid Management Information System. The secretary reported that the new Medicaid Management Information System (MMIS) resulted in improved claims and an administrative infrastructure that is the most sophisticated system in the United States. The technology provides better information from highly automated databases and is easy for providers to use.

The commissioner reported that provider payment through the new MMIS system was implemented on June 4, 2007. The implementation has not been seamless, but after some early administrative and technological problems, claims are being processed.

KyHealth Choices. The secretary reviewed the four targeted benefit plans: global choices, optimum choices, comprehensive choices, and family choices. The secretary described the Medicaid program prior to the Deficit Reduction Act of 2005. He described the program as "one size fits all" with identical programs statewide regardless of need. There was very limited consumer involvement, and there were no limitations on benefits or services. He said KyHealth Choices has new rules related to prescription drug coverage, including cost sharing, co-pays for emergency room visits for nonemergency care, tailored health benefit packages, increased use of home and community services rather than institutional long-term care services, service limitations, best practices from the commercial market, maximum out-of-pocket expense limits, a tiered formulary, and consumer involvement in prevention and care management. He reported that these policy changes have not presented any problems with access to care. In regard to care management, the secretary stated that \$2 billion has been spent currently on the conditions of diabetes, chronic obstructive pulmonary disease, asthma, heart disease, stroke, heart failure, and neonatal care. Disease management pilots were initiated in counties with high risks.

Wellness Initiatives. The secretary provided information on wellness initiatives that have been implemented, including the "Healthy at Heart" initiative and the smoking cessation program, and the Disease Management Initiative. The Healthy at Heart initiative provides free health screenings, including glucose, cholesterol, and lipid levels. The smoking cessation program offers nicotine replacement products to Medicaid recipients who enroll in counseling through the Quit Line.

Electronic Health Initiatives

The secretary reported that Kentucky received \$4.9 million from the Centers for Medicare and Medicaid Services to support the initial development of the Kentucky Health Information Partnership). The partnership is a Medicaid-led alliance of payers working together to develop a statewide health information exchange.

Other technology advancements in Medicaid include the implementation of a new data warehouse, physician profiling, InterQual Criteria, and the new MMIS Administrative System. In addition, the Kentucky All Schedule Prescription Electronic Reporting System (KASPER) has been connected to the MMIS.

National Provider Identifier

The commissioner of the Department for Medicaid Services reported that the Centers for Medicare and Medicaid Services has provided a one-year window for compliance with the use of a national provider number for states that show due diligence toward implementing this requirement.

Passport Health Plan

The chairman and chief executive officer of University Health Care, Inc., and executive vice president of health affairs for the University of Louisville provided an overview of Passport Health Plan. The chairman reported that Kentucky has a contract with Passport Health Plan to provide services for Medicaid members in 16 counties. The Partnership Council is also a segment of this contract since that structure is a key component of the 1115 waiver. He noted that the Partnership Council is a group of committees made up of providers, advocates, and beneficiaries. A comparison of medical cost trends for 2007 was presented. Passport's cost trend is 4.9 percent, compared to a regional trend of 10.3 percent and national trend of 8.2 percent. The pharmacy cost trend was down to 5 percent in 2006 from 22 percent in 2000, and generic usage has increased from 54 percent up to 72.3 percent. Generic usage has resulted in savings of more than \$8 million and reduced the rate at which the cost was climbing. Each 1 percent of generic utilization equals cost avoidance of \$400,000 per year. Passport Health Plan provider payments have consistently equaled or exceeded those of Kentucky Medicaid, with 92 cents of every dollar going to providers.

The president of Passport Health Plan reported on the importance of chronic disease management. In the area of member supports, interventions are targeted based on the member's risk. There is customized, interactive management considering the needs of both urban and rural members. Effective communication strategies are used including reminders to targeted member outreach, newsletters, member Web sites, health education programs, and culturally appropriate communication documents.

In the area of provider support, the president presented several reporting tools that enable the health plan to get feedback, identify at-risk members, and monitor utilization.

The plan offers a provider recognition program, provider Web site, continuing medical education conferences, and care coordination staff support. The president also discussed asthma disease management, which is population based and impacts 26,000 members. She also discussed cardiovascular disease management, which impacts 5,600 members. She presented data on comprehensive diabetes care and noted that work is ongoing to improve the number of members who obtain recommended annual tests. Diabetes impacts 14,000 members.

The president of Passport Health Plan presented information on the Women's Health Initiative. There are 29,500 members who are women 21 years of age and older.

Passport was awarded excellent accreditation, the highest level possible in the National Committee for Quality Assurance Accreditation, and was recognized in the top 25 of America's best health plans for the second year in a row. Passport is the only Medicaid health plan in Region 4 to achieve "America's Best Health Plan" status.

Hospital Reimbursement

The vice president of finance at Baptist Health Care and the chair of the Hospital Technical Advisory Committee presented information on hospital reimbursement. The vice president said hospital representatives have been working for years to convert to a broad based tax. The 2006-2008 budget and regulatory changes resulted in increased reimbursement from 65 percent to 80 percent of costs.

Kentucky Children's Health Insurance Program

The commissioner of the Department for Medicaid Services provided a historical overview of the Kentucky Children's Health Insurance Program (KCHIP), which was established in July 1998. He explained how it is similar and different from the traditional Medicaid program.

The commissioner provided statistical data related to KCHIP. Kentucky has served 261,379 children since the program's implementation. Enrollment is approximately 54,000, with 34 percent of this population being within 151-200 percent of the federal poverty level. The total expenditures since the program's implementation are \$620.5 million.

The commissioner reported on the federal activities to get the federal State Children's Health Insurance Program reauthorized. The program, which expired September 30, 2007, was reauthorized by Congress with the passage of the Children's Health Insurance Program Reauthorization Act of 2007. The president vetoed the act and the veto was not overridden. The State Children's Health Insurance Program is operating under a Continuing Resolution. States were allocated funds under the Resolution, but only those states that expended their current funds were awarded allotments. States with carryover allotments will continue to spend those funds and will not be awarded an allotment until the current carryover funds are depleted or until the program is

reauthorized. Kentucky has enough carryover funds to get through most of state fiscal year 2008. Kentucky continues to operate the program at the current levels and has no immediate plans to change the structure of the program.

Outreach for the KCHIP program was discussed. Outreach funds are very limited, with the money being targeted for specific populations. The department is working with the Jefferson County School Nutrition Program to cross-reference names of children that are on the free or reduced-price lunch program with the names of insured children under the KCHIP program. The goal is to find uninsured children who may be eligible. The department estimates that there are 69,000 eligible children who are not currently enrolled in KCHIP.

December Meeting

The Medicaid Oversight and Advisory Committee plans to meet in December. It is projected that the agenda will include testimony from representatives of the incoming administration.

**Report of the 2007
Program Review and Investigations Committee**

**Sen. Ernie Harris, Co-Chair
Rep. Rick Nelson, 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. Sheldon Baugh
Rep. Dwight Butler
Rep. Leslie Combs
Rep. Charlie Hoffman
Rep. Ruth Ann Palumbo
Rep. Rick Rand
Rep. Arnold Simpson

LRC Staff: Greg Hager, Rick Graycarek, Jim Guinn, Christopher Hall, Margaret Hurst, Colleen Kennedy, Van Knowles, Rkia Rhrrib, Tara Rose, Cindy Upton, and Karen Wirth

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Program Review and Investigations Committee

Jurisdiction: The Program Review and Investigations Committee is a 16-member bipartisan committee authorized under KRS Chapter 6. The committee is empowered to review the operations of state agencies and programs, to determine whether funds are being spent for the purposes for which they were appropriated, to evaluate the efficiency of program operations, and to evaluate the impact of state government reorganizations. State agencies are obligated to correct operational problems identified by the committee and must implement the committee's recommendations or propose suitable alternatives.

Any official in the executive, judicial, or legislative branches of government may request a study. A majority vote of the committee is required to initiate research studies and 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 2007, the Legislative Program Review and Investigations Committee held six meetings through November.

At the May meeting, members of the committee elected the House co-chair. Staff presented the report *Pollution Cap and Trade Programs in Kentucky*. A manager from the Environmental and Public Protection Cabinet's Division for Air Quality responded. After discussion, the committee adopted the report and its recommendations.

At the June meeting, the executive director of the Kentucky Office of Homeland Security presented an overview of homeland security in Kentucky. The executive director of the State Board of Elections briefed the committee on implementation of the Help America Vote Act in Kentucky.

At the July meeting, the chairman and executive director of the School Facilities Construction Commission and the interim commissioner of the Kentucky Department of Education and the department's associate commissioner of District Support Services updated the committee on planning and funding for school facilities.

At the September meeting, staff presented the report *Drug Courts*. The Administrative Office of the Courts' deputy director, general manager of drug courts, and general manager of the Department of Juvenile Services responded. After discussion, the committee adopted the report and its recommendations.

At the October meeting, staff presented the report *School Insurance*. The Kentucky Department of Education's associate commissioner for District Support Services, the executive director and director of risk management from the Kentucky

School Boards Association, and the chief financial officer from the Kentucky School Board Insurance Trust responded. After discussion, the committee adopted the report and its recommendations. The committee initiated four new studies: state pension accounting, including teachers' pensions and rate of return; planning for drug use prevention by the Kentucky Agency for Substance Abuse Policy; cost of college and high school textbooks; and cost to Kentucky of illegal aliens.

At the November meeting, staff presented the report *Siting of Electric Transmission Lines*. The executive director and general counsel of the Public Service Commission, staff of East Kentucky Power Cooperative, and staff of Louisville Gas and Electric responded. After discussion, the committee adopted the report and its recommendations. Staff presented the report *Kentucky Housing Corporation*. Officials from the Kentucky Housing Corporation responded. After discussion, the committee adopted the report and its recommendations. The committee initiated a study of helping inmates return to society after their release from prison.

For the December meeting, staff will present a report on Medicaid prescription drug fraud.

**Report of the 2007
Tobacco Settlement Agreement Fund Oversight Committee**

**Sen. Carroll Gibson, Co-Chair
Rep. Mike Denham, Co-Chair**

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

Rep. Royce W. Adams
Rep. James Comer, Jr.
Rep. Charlie Hoffman
Rep. Thomas McKee
Rep. Tommy Turner

LRC Staff: Tanya Monsanto, Lowell Atchley, and Lindsey Murphy

**Presented to the
Legislative Research Commission
and the
2008 Regular Session of the
Kentucky General Assembly**

Tobacco Settlement Agreement Fund Oversight Committee

Jurisdiction: Matters pertaining to the Agricultural Development Board, including requests to the board for grants and loans; planning by the board to establish short-term and long-term goals, to devise strategies, and to make investments that will assist farmers, and the administrative, financial, and programmatic activities of the board; expenditures under the Early Childhood Development Fund and the Kentucky Health Care Improvement Fund; efforts of agencies and educational institutions to assist in the revitalization and diversification of tobacco farms; efforts of institutions of public postsecondary research in conducting alternative crop development research; review of county agricultural development council plans; review of the use of Tobacco Master Settlement Agreement money.

Committee Activity

The Tobacco Settlement Agreement Fund Oversight Committee met 12 times during the 2007 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 (ADB) regarding funding decisions on project applications. The committee received reports from executive branch agencies that receive a portion of the tobacco settlement funds. Also, the committee continued to serve as a forum for public input and performed an oversight function regarding funding decisions made by the ADB.

During its January meeting, the committee received a status report from the Office of Attorney General on MSA funding and enforcement of MSA statutory requirements. An assistant attorney general discussed the outcome of legislation passed in the 2006 Regular Session dealing with escrow requirements for companies not participating in the MSA. In a subsequent meeting, the committee learned that Kentucky received an additional \$18.2 million in MSA funds for the year.

In April, the committee received a briefing from two University of Kentucky professors who were about to begin a study on the effectiveness of tobacco settlement fund investments in agriculture, agribusiness, and leadership since the inception of the program. They were anticipated to report back to the committee in a future meeting.

The harsh April freeze and the severe drought that continued through the summer and well into the fall spurred committee discussion during a number of meetings. In September, the committee went on record urging the state Agricultural Development Board to consider all options related to drought assistance. The board subsequently made several changes aimed at assisting agricultural producers at the county level. In November, the committee heard from the Department of Agriculture, GOAP, University of Kentucky, and the U.S. Department of Agriculture Farm Service Agency on state drought relief efforts.

Acting in its oversight capacity, throughout its meetings, committee members asked about procedures of the Agricultural Development Board, the Governor's Office of Agricultural Policy, and health-related agencies receiving MSA funds coming to the state.

The committee also discussed grain and biomass energy production, the growth of a robust livestock industry in Kentucky, and the importance of the funds in helping meet the state's health care needs.

Review of Projects

At each meeting, the Agriculture Development Board is required to present a report on the projects it acted on in the previous month. By receiving the report, the committee performed its responsibility of monitoring the expenditure of funds received under the MSA, receiving ADB reports through the Governor's Office of Agricultural Policy, and overseeing the pattern of MSA fund usage in accordance with requirements of the agreement.

GOAP representatives reviewed projects affecting multiple counties and regions and the state as a whole.

Several projects related to efforts to bolster segments of the state's agriculture industry, such as poultry, livestock, grain, and wine grapes. For example, in July, the committee discussed the ADB's approval of more than \$825,000 in tobacco settlement funds for the Kentucky Poultry Federation to offer a poultry house evaluation program and establish an education program. In August, the committee heard about a \$2.5 million Kentucky Beef Network project to increase livestock profitability through education, on-farm management, and marketing. Then in November, the committee received information on the ADB's approval of more than \$1.2 million for an Owensboro meat packing company that promised to use meats supplied by Kentucky producers.

The committee exercised its oversight function by asking GOAP staff why funds were allocated in certain ways for particular projects. They also sought additional information on the ADB's loan procedures, how funding applications are reviewed and prepared for the board's consideration, the reasons why some projects are denied funding, and project monitoring and compliance.

Cooperative extension agents from the University of Kentucky discussed how their individual county agricultural development councils function and distribute tobacco settlement funds. The committee also heard a presentation from the executive director of the Kentucky Center for Agriculture and Rural Development, which received funding from the Agricultural Development Board. The center provides technical assistance and business support services to existing and emerging Kentucky agribusinesses.

Reports Received

In addition to the monthly reports from representatives of the Governor's Office of Agricultural Policy, the committee received status reports from administrators of health-related programs that obtain tobacco settlement funds through the state budget.

In June, the committee received the annual report from the director of the Division of Early Childhood Development, which receives 25 percent of the tobacco settlement funds coming to Kentucky. Officials with the Department for Public Health and Department for Community Based Services took part in the presentation. The committee discussed a range of issues including immunization programs, child advocacy centers, ways to further develop and improve the overall program, and Kentucky's status nationally in the area of childhood development efforts.

During the July meeting, the committee heard from three agencies: the Health Care Improvement Authority, Kentucky Access, and the Kentucky Agency for Substance Abuse Policy (KY-ASAP).

The director of the Kentucky Office of Insurance updated the committee on the status of the Health Care Improvement Authority.

Committee members received a financial report on Kentucky Access, the high-risk insurance pool that receives tobacco settlement funds totaling almost \$16.8 million. The director told the committee that tobacco funds took care of 42 percent of Kentucky Access claims expenses.

The committee received its next health-related report at the August meeting, from the program manager of the Tobacco Prevention and Control Program, which runs a statewide tobacco prevention and cessation effort based on federal Centers for Disease Control and Prevention best practices. She informed the committee that smoking rates for both high school and middle school students in Kentucky had declined.

In September, the committee received reports from the Kentucky Infrastructure Authority and the Division of Conservation, both of which receive state MSA funds.

The Kentucky Infrastructure Authority presentation prompted a broad-ranging discussion on the effective use of the funds to install or extend water lines; the level of cooperation among various local cities, counties, and agencies; how to reach hard-to-serve areas; and issues related to water district growth.

Next, the committee heard from the director of the Division of Conservation, who discussed the soil erosion and water quality cost share program. The speaker said the tobacco funds continue to remain important for the program.

In October, University of Louisville and University of Kentucky officials brought the committee up to date on the latest work being done in lung cancer research funded in

part with tobacco settlement revenues. The speakers discussed a broad range of topics, including early detection of lung cancer, new drugs that may be on the horizon, activities related to clinical trials, and the push to obtain National Cancer Institute designation.

In addition, the director of University of Louisville James Graham Brown Cancer Center updated the committee on the partnership with the Owensboro Medical Health System to develop cancer therapies using plants, particularly tobacco.

In December, the committee was anticipated to receive the yearly report from the Kentucky Agricultural Finance Corporation, which uses tobacco settlement funds to make agriculture-related loans.

