FINAL REPORTS OF THE INTERIM JOINT, SPECIAL, AND STATUTORY COMMITTEES

2004

Presented to the
Legislative Research Commission
and the
2005 Kentucky General Assembly

Informational Bulletin No. 216

Legislative Research Commission
Frankfort, Kentucky
lrc.ky.gov

December 2004

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 2004 Interim, all 14 interim joint committees held meetings. No special committees were authorized by LRC. All eight statutory committees met during the 2004 Interim.

LRC provides this informational booklet as a summary of the activity of the interim joint, special, and statutory committees since adjournment of the 2004 General Assembly. The reports were prepared separately by the committee staff.

Robert Sherman
Director

Frankfort, Kentucky
December 2004

CONTENTS

Page

FOREWORD.... i
TABLE OF CONTENTS iii

REPORTS OF 2004 INTERIM JOINT COMMITTEES

Agriculture and Natural Resources 1
Appropriations and Revenue..11
Banking and Insurance..17
Economic Development and Tourism 21
Education 33
Energy 37
Health and Welfare 41
Judiciary..61
Labor and Industry..67
Licensing and Occupations..71
Local Government 77
Seniors, Veterans, Military Affairs, and Public Protection 83
State Government..89
Transportation..97

REPORTS OF STATUTORY COMMITTEES

Administrative Regulation Review Subcommittee..107
Capital Planning Advisory Board 109
Capital Projects and Bond Oversight Committee 111
Education Assessment and Accountability Review Subcommittee........................125
Government Contract Review Committee..129
Medicaid Oversight and Advisory Committee 133
Program Review and Investigations Committee..139
Tobacco Settlement Agreement Fund Oversight Committee 143

REPORT OF THE 2004
INTERIM JOINT COMMITTEE ON
AGRICULTURE AND NATURAL RESOURCES

Sen. Ernie Harris, Co-Chair
Rep. Roger Thomas, Co-Chair
Rep. James Gooch, Co-Chair

Rep. Royce Adams
Rep. John Arnold , Jr.
Sen. David Boswell
Rep. James Bruce
Rep. Mike Cherry
Rep. Hubert Collins
Rep. Howard Cornett
Rep. Mike Denham
Rep. Jim Higdon
Sen. Daniel Kelly
Sen. Vernie McGaha
Rep. Charles Meade
Sen. Virgil Moore
Rep. Don Pasley
Rep. Marie Rader
Sen. Dorsey Ridley
Rep. Dottie Sims
Rep. Jim Stewart
Sen. Elizabeth Tori
Rep. Ken Upchurch
Rep. Susan Westrom
Rep. Adrian Arnold
Rep. Sheldon Baugh
Rep. Scott Brinkman
Rep. Dwight Butler
Rep. Jack Coleman
Rep. James Comer
Rep. Tim Couch
Rep. Keith Hall
Rep. Charlie Hoffman
Sen. Bob Leeper
Rep. Thomas McKee
Rep. Brad Montell
Rep. Fred Nesler
Sen. Joey Pendleton
Rep. Rick Rand
Sen. Tim Shaughnessy
Rep. Brandon Smith
Sen. Damon Thayer
Rep. Tommy Turner
Rep. Robin L. Webb
Rep. Brent Yonts

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

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON HORSE FARMING

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

Rep. Royce Adams
Rep. Scott Brinkman
Rep. Jim Bruce
Rep. Jack Coleman
Rep. Charlie Hoffman
Rep. Thomas McKee
Rep. Don Pasley
Sen. Joey Pendleton
Rep. Ken Upchurch

SUBCOMMITTEE ON NATURAL RESOURCES

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

Sen. David Boswell
Rep. Hubert Collins
Rep. Howard Cornett
Rep. Tim Couch
Rep. Jim Gooch
Sen. Dorsey Ridley
Rep. Brandon Smith
Rep. Jim Stewart
Rep. Robin Webb
Rep. Brent Yonts

SUBCOMMITTEE ON RURAL ISSUES

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

Rep. Adrian Arnold
Rep. John Arnold
Rep. Sheldon Baugh
Rep. Dwight Butler
Rep. Mike Cherry
Rep. James Comer
Rep. Jim Higdon
Sen. Bob Leeper
Rep. Brad Montell
Rep. Fred Nesler
Rep. Marie Rader
Rep. Rick Rand
Rep. Dottie Sims
Rep. Roger Thomas
Rep. Tommy Turner

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; Natural Resources and Environmental 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

From July to November, the Interim Joint Committee on Agriculture and Natural Resources held five monthly meetings during the 2004 Interim. Three subcommittees were formed to study natural resource and environmental issues, horse farming, and rural community development.

The Interim Joint Committee on Agriculture and Natural Resources divided its attention principally between agricultural issues and environmental issues during the 2004 Interim. Many of the topics illustrated the conflicts arising out of increased interdependence between Kentucky and other regional markets and showed the impact federal actions have had on the state.

The committee focused on a number of agricultural issues including the implementation of an animal identification/tracking system, dairy production and marketing, the federal tobacco buyout, and the future of Kentucky's horse industry. Important environmental issues considered by the committee included the implementation of new federal air quality standards and the implementation of litter abatement programs in the Commonwealth. The committee also received administrative regulations and several mandated reports. The committee reviewed and approved an executive reorganization order for the Environmental and Public Protection Cabinet. The committee also adopted resolutions honoring the legislative service of Representatives Roger Thomas and Dottie Sims and the late Senator Paul Herron.

Animal identification/tracking systems are being promoted by the federal government to reduce the impact of animal diseases on public health, animal welfare, and farm economies. At the October meeting, the committee examined implementation of an animal identification/tracking system in Kentucky. The federal government is encouraging states to implement their own animal identification/tracking systems.

Animal identification/tracking systems will provide assurance to national and international markets, as well as to the public, that animals can be identified as "disease free." The Kentucky Department of Agriculture (KDA), Office of the State Veterinarian, received a $229,093 grant in 2004 from the United States Department of Agriculture (USDA) for animal identification projects. Two-thirds of the funds will be used to implement a database and tracking system that will identify premises on which animals reside. The remainder of the grant will fund development of a tag identification system to trace every animal as it moves from place to place. There are approximately 87,000 farms in Kentucky, and the intent of the system is to provide 48-hour tracking of any animal if there is an incidence of disease.

Regarding dairy production and marketing in Kentucky, at its first meeting, the committee received testimony from representatives of KDA about the problem of low prices paid to producers for milk. Over the past several years, milk producers nationwide have received lower prices for milk. However, in 2004, very high retail prices prompted allegations of an unfair playing field between in-state and out-of-state milk producers and between milk producers and milk marketers.

According to KDA representatives, Kentucky needs more milk than it currently produces. The in-state demand for milk results in net imports of milk to Kentucky from Indiana, Utah, and California. The increased competition between in-state and out-of-state milk producers is putting more pressure on Kentucky dairy farmers to reduce their wholesale milk prices to marketers. KDA officials stated that prices paid to producers were higher this year than in the past, but the disparity between retail prices and wholesale milk prices is a problem. There was no immediate solution to the problem offered in committee, but members expressed interest in continuing to study the topic.

At the November meeting, the committee heard from the Council of State Governments and the Office of the Attorney General regarding the federal American Jobs Creation Act and the provisions that it contained regarding the tobacco buyout. The tobacco buyout will have a major impact on Kentucky. Kentucky quota owners and growers will be eligible for payments from tobacco companies participating in the buy-out in lieu of Phase II payments for a 10-year period. Phase II payments will end ostensibly, but there were concerns that tobacco companies would seek a refund of their Phase II payments because of government-imposed obligations to fund the tobacco buyout. According to the Office of the Attorney General, all of the tobacco companies had made requests for refunds of the 2004 Phase II payment.

Members also voiced concerns about the impact of the tobacco buyout legislation on Phase I funds. Language contained in the Master Settlement Agreement (MSA) assigns use of Phase I dollars to supplement Phase II if Phase II falls below $114 million dollars, only if the accumulated shortfall reaches $20 million. The Governor's Office of Agriculture Policy indicated that the language in the Master Settlement Agreement only affected agriculture's share of the MSA monies. MSA portions that fund early childhood development would not be affected. However, the 50 percent share of MSA monies used for agriculture are also used for water line extension projects, county projects, and state projects. The impact of loss of Phase I dollars would be substantial.

At the September meeting, the committee continued to review constraints facing Kentucky's horse industry. This topic first emerged as an area of interest for the committee two years ago. A subcommittee on horse farming was reauthorized for a second time to more thoroughly examine the topic of horse farming. The horse industry remains an economic driver in Kentucky with an estimated contribution of $4 billion dollars annually to Kentucky's economy.

Increasingly, the horse farming industry signifies Kentucky's unique history of a thoroughbred racing and horse farming culture. In 2004, a group of interested parties formed the Kentucky Equine Education Project (KEEP). This group promotes horse farming in Kentucky, urges support for measures designed to make horse farming more profitable, and aims to redress popular misconceptions about horse farming.

Representatives of KEEP discussed several key problems facing horse farmers. Competition from several other states with strong thoroughbred industries and breeder incentive programs place downward pressure on the economic viability of Kentucky horse farmers. In particular, KEEP identified taxes on stud fees, feed, and supplies as a key area where legislation could make Kentucky more competitive and prevent horse farmers from relocating their farming facilities to other states. One of the concerns facing the committee has been whether addressing the question of larger purse sizes at racing facilities like Keeneland is beneficial given tight public finance. Kentucky's ability to generate significant net new revenue to fund larger purse sizes is limited.

Several environmental issues were given committee attention. Over the past several years the committee has received testimony on federal air quality standards being imposed on states. Interest has centered on the impact of emissions restrictions on economic and industrial development, forced implementation of vehicle emissions testing programs, and transportation conformity rules. This year, additional standards were imposed on ozone and on particulate matter.

At the July meeting, representatives from the Kentucky Division of Air Quality provided an explanation of how those new standards would impact communities across Kentucky. Outreach programs, designed to inform community leaders about the new federal air quality standards, were instituted in early summer of 2004. The committee learned that Kentucky communities newly designated as nonattainment or "basic nonattainment" for ozone will not be required to implement a vehicle emissions testing program as a result. There will be stricter permitting requirements for industries, and some communities will have to work on a transportation conformity plan.

For several years, the committee has reviewed Kentucky's management of solid waste. At the October meeting, the committee received testimony from the Secretary of the Environmental and Public Protection Cabinet (EPPC) regarding implementation of House Bill 174 passed during the 2002 General Assembly. Portions of this bill dealt with litter abatement in cities and counties. The committee learned that funds for litter abatement have been collected and transferred to the Kentucky Personal Responsibility in a Desirable Environment program. A total of $4.5 million in funds was disbursed to 34 counties for the cleanup of dumps. However, administrative regulations to implement litter abatement have not been promulgated by the cabinet. The cabinet also offered several proposals to improve solid waste management in the Commonwealth. These included revising the litter abatement formula in statute; reducing the total number of payments to counties for litter abatement from two to one; encouraging recycling; and specifying county/city obligations for roadside cleanup of litter.

Administrative Regulations

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

During the year, the committee received 44 administrative regulations, including a series of administrative regulations pertaining to non-coal mineral mining operations found to be deficient by the 2004 General Assembly. Administrative regulations received by the committee pertained to programs in the Department of Agriculture; the Governor's Office of Agriculture Policy; the Department for Fish and Wildlife Resources; and the Divisions of Air Quality, Waste Management, Water, and Mine Reclamation and Enforcement within the Environmental and Public Protection Cabinet.

All administrative regulations were placed on the appropriate monthly meeting agenda and became effective upon adjournment of that committee meeting.

Prefiled Bills Referred to the Committee

The following prefiled bills for the 2005 Regular Session were referred to the committee for review. No committee action was taken on either prefiled bill.

05 RS BR 67	AN ACT relating to animals.
05 RS BR 19	A Concurrent Resolution confirming the appointment of Donna M. Amburgey to the Kentucky Agricultural Development Board.

Legislative Proposals Received from State Agencies

Only one formal written proposal from the Aquaculture Task Force was received by the committee. The remaining proposals were provided verbally in testimony before the committee. In testimony, KEEP and the EPPC made several suggestions for revisions to current legislation.

The Proposals

- KEEP proposes that stud fees, horse feed, supplies, and equipment be exempted from state sales tax;

- EPPC proposes the total number of payments to counties paid from the PRIDE fund for litter abatement be reduced from two to one;

- EPPC proposes the litter abatement formula be simplified for determining the number of dollars counties are eligible to receive;

- EPPC proposes an examination of incentives to enhance recycling efforts to reduce the amount of solid waste entering the waste stream;

- EPPC proposes the roadside litter cleanup requirements imposed on cities and counties when eligible for roadside cleanup funds be clarified. It is unclear if cities and counties must cleanup all road miles during the year;

- The Aquaculture Task Force proposes that there be $2 million per year in committed funds from the state for the next five years to support the growth and sustainability of the acquaculture industry.

Several reports were received by the committee.

- *Kentucky Tobacco Research and Development Center: Quarterly Report, April 1-June 30, 2004.*
- *Agricultural Warehousing Sites Cleanup Fund, 2004 Annual Report.*
- *Aquaculture Task Force Report, 2004.*
- *Tobacco Settlement Agreement Fund Oversight Committee Report, 2004.*
- *Small Business Development Center Report, 2004.*
- *Petroleum Refining Industry Report, 2004.*

SUBCOMMITTEE ACTIVITY

Subcommittee on Natural Resources

The natural resources subcommittee held three meetings during the interim. The first meeting examined the statutory authority and regulations governing on-site waste disposal systems for residential use. There are different types of permits and inspection requirements depending on the type of system selected and whether there will be a surface water discharge. The EPPC has been working jointly with the Cabinet for Health Services to process backlogged permits.

The second meeting addressed the spread of wildlife diseases like hemorrhagic disease, chronic wasting disease (CWD), and rabies. Kentucky remains a CWD-free state. Cervid populations in Kentucky continue to show no signs of CWD; however, regulations banning the transportation of animals from CWD states to Kentucky and additional controls over transportation of cervids within Kentucky remain in effect.

The third meeting focused on the development of a Kentucky-specific energy policy and the Safe Drinking Water Program. Representatives from EPPC and the Commerce Cabinet provided information about the Commonwealth Energy Policy Task Force. Representatives from the Drinking Water Branch in the Environmental and Public Protection Cabinet discussed implementation of the federal Safe Drinking Water Program in Kentucky.

Subcommittee on Rural Issues

The subcommittee held two meetings through October. Topics that were discussed included overviews of rural economic development programs offered by various economic development agencies, and an overview of Kentucky's fallen animal removal industry.

In July, the subcommittee heard presentations from representatives of USDA Rural Development, the Kentucky Department of Agriculture, the Kentucky Cabinet for Economic Development, and the Governor's Office of Agricultural Policy. The representatives discussed the various rural economic development incentives that their agencies offer, including loan and grant financing programs, marketing and promotional programs, community and regional economic development assistance programs, technical assistance, training and recruitment programs, and infrastructure improvements.

The September meeting was held at the Kentucky Horse Park in Lexington and focused on fallen animal removal. Presentations were made by representatives from the rendering industry and the Kentucky Department of Agriculture. At that meeting, the members heard a brief history of the rendering industry and of the new federal rule proposed by the Food and Drug Administration that would prohibit specified risk materials from being put into animal feed. They were also given a presentation regarding the Department of Agriculture's animal disposal assistance program.

Subcommittee on Horse Farming

The Horse Farming Subcommittee of the Interim Joint committee for Agriculture and Natural Resources met three times during the Interim. At its July meeting, the subcommittee received testimony from the executive director of the Kentucky Equine

Education Project. This presentation was repeated at the September meeting of the full Interim Joint Committee for Agriculture and Natural Resources.

The September meeting was held at the Kentucky Horse Park. The subcommittee took a tour of the Horse Museum conducted by the executive director of the Kentucky Horse Park and the curator of the Horse Museum.

The third and final meeting of the subcommittee took place on November 10. At this meeting, presentations were made by the executive director of the New York Thoroughbred Breeders, Inc. and the secretary-treasurer of the Louisiana Thoroughbred Breeders Association.

REPORT OF THE 2004
INTERIM JOINT COMMITTEE ON
APPROPRIATIONS AND REVENUE

Sen. Richard Sanders, Jr., Co-Chair
Rep. Harry Moberly, Jr., Co-Chair

Sen. Brett Guthrie
Sen. Dan Kelly
Sen. Robert Leeper
Sen. Gerald Neal
Sen. Joey Pendleton
Sen. Dan Seum
Sen. Jack Westwood
Rep. Royce Adams
Rep. Joe Barrows
Rep. Dwight Butler
Rep. Mike Cherry
Rep. Jack Coleman
Rep. Robert Damron
Rep. Jon Draud
Rep. Joni Jenkins
Rep. Mary Lou Marzian
Rep. Lonnie Napier
Rep. Stephen R. Nunn
Rep. John Will Stacy
Rep. John Vincent
Rep. Robin L. Webb
Sen. Ray Jones II
Sen. Alice Kerr
Sen. Vernie McGaha
Sen. R. J. Palmer II
Sen. Larry Saunders
Sen. Robert Stivers
Rep. Rocky Adkins
Rep. Scott Brinkman
Rep. Jim Callahan
Rep. Larry Clark
Rep. Jesse Crenshaw
Rep. Bob DeWeese
Rep. Danny Ford
Rep. Jimmie Lee
Rep. Thomas McKee
Rep. Fred Nesler
Rep. Charles L. Siler
Rep. Tommy Turner
Rep. Jim Wayne
Rep. Rob Wilkey

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

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 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. Vernie McGaha, Co-Chair
Rep. Robert Damron, Co-Chair

Rep. Jim Callahan
Rep. Larry Clark
Rep. Lonnie Napier
Rep. John Vincent
Sen. Walter Blevins, Liaison Member
Sen. Alice Kerr, Liaison Member
Sen. Katie Stine, Liaison Member
Rep. Charlie Hoffman, Liaison Member
Rep. Tommy Thompson, Liaison Member
Rep. Buddy Buckingham, Liaison Member
Rep. Ruth Ann Palumbo, Nonvoting Ex Officio

LRC Staff: Kim Phelps and Kristin Burton

BUDGET REVIEW SUBCOMMITTEE ON EDUCATION

Sen. Brett Guthrie, Co-Chair
Rep. John Will Stacy, Co-Chair

Sen. R.J. Palmer II
Rep. Joe Barrows
Rep. Jon Draud
Rep. Mary Lou Marzian
Rep. Tommy Turner
Sen. Lindy Casebier, Liaison Member
Rep. Jodie Haydon, Liaison Member
Rep. Charles Miller, Liaison Member
Rep. Jim Thompson, Liaison Member
Rep. Frank Rasche, Nonvoting Ex Officio

LRC Staff: Charles Shirley, Dudley Cotton, Rkia Rhrib, Tom Willis, and Bettina Abshire

BUDGET REVIEW SUBCOMMITTEE ON GENERAL GOVERNMENT, FINANCE AND PUBLIC PROTECTION

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

Sen. R.J. Palmer	Sen. Albert Robinson, Liaison Member
Sen. Elizabeth Tori	Rep. John Adams, Liaison Member
Rep. John Arnold	Rep. Carolyn Belcher, Liaison Member
Rep. Charles L. Siler	Rep. Tanya Pullin, Liaison Member
Rep. Jim Wayne	Rep. Roger Thomas, Nonvoting Ex Officio

LRC Staff: Jeff Hancock, Joe Lancaster, Jack McNear, Jim Reynolds, Randy Smith, and Spring Emerson

BUDGET REVIEW SUBCOMMITTEE ON HUMAN RESOURCES

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

Sen. Gerald Neal	Sen. Richard Roeding, Liaison Member
Rep. Scott Brinkman	Rep. Reginald Meeks, Liaison Member
Rep. Bob DeWeese	Rep. Dottie Sims, Liaison Member
Rep. Joni Jenkins	Rep. Kathy Stein, Liaison Member
Rep. Steve Nunn	Rep. Tom Burch, Nonvoting Ex Officio

LRC Staff: Cindy Murray, Frank Willey, and Kristin Burton

**BUDGET REVIEW SUBCOMMITTEE ON
JUSTICE AND JUDICIARY**

Sen. Robert Stivers, Co-Chair
Rep. Jesse Crenshaw, Co-Chair

Sen. Ray Jones
Rep. Dwight Butler
Rep. Thomas McKee
Rep. Robin L. Webb
Sen. David Williams, Liaison Member
Rep. Mike Denham, Liaison Member
Rep. Arnold Simpson, Liaison Member
Rep. Brent Yonts, Liaison Member
Rep. Gross Lindsay, Nonvoting Ex Officio

LRC Staff: Karen Hilborn Crabtree, Sharon Cantrell, and Bettina Abshire

**BUDGET REVIEW SUBCOMMITTEE ON
TRANSPORTATION**

Sen. Robert Leeper, Co-Chair
Rep. Rob Wilkey, Co-Chair

Rep. Mike Cherry
Rep. Jack Coleman
Rep. Danny Ford
Rep. Fred Nesler
Rep. Dorsey Ridley
Sen. Charlie Borders, Liaison Member
Sen. Virgil Moore, Liaison Member
Rep. Eddie Ballard, Liaison Member
Rep. Keith Hall, Liaison Member
Rep. Don Pasley, Liaison Member
Hubert Collins, Nonvoting Ex Officio

LRC Staff: Bart Hardin and Spring Emerson

Ex Officio Members
Sen. Richard Sanders, Jr.
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; and distribution and budgeting of state lottery proceeds.

COMMITTEE ACTIVITY

During the 2004 Interim, the Interim Joint Committee on Appropriations and Revenue held four meetings.

The committee held its first meeting on June 22. The committee received testimony from members of the Consensus Forecasting Group regarding the revenue forecast and economic outlook for Kentucky. Discussed were the three statutorily required forecasts the Consensus Revenue Forecasting Group must make to the administration and General Assembly. In addition, it was also noted that because of unanticipated growth in the state's economy and its potential impact on the future outlook, the State Budget Director requested a reforecast for fiscal years 2005 and 2006, and the forecast was adjusted based on the increased revenues. Senator Sanders asked that the committee pass a resolution asking the President and Kentucky's Congressional delegation to support the federal tobacco buy-out. After amendment, the resolution was adopted.

At its second meeting, held on July 26, the committee received year-end revenue and expenditure account close-outs for the 2004 fiscal year and an overview of the Governor's spending plan. The State Budget Director provided details of the spending plan, including details of the year-end projected revenue and expenditures. He then discussed the differences in the Governor's continuation spending plan and the enacted budget. The State Budget Director discussed the decision to implement the Governor's spending plan quarterly, instead of annually, and outlined the annual spending estimates for the executive, judicial, and legislative branch budgets and continuing appropriations.

On August 26, the committee traveled to the Kentucky State Fair in Louisville for its third meeting. After being welcomed by the mayor of Louisville Metro and the president of the University of Louisville, the committee received testimony from the secretary of the Commerce Cabinet regarding Kentucky's future in globalization and international trade. The secretary discussed the importance energy holds in Kentucky's competitiveness worldwide and the need to develop a stronger tourism market. Next, the secretary of the Economic Development Cabinet provided an update regarding the cabinet's economic development efforts. He discussed the status of Kentucky's import and export markets and its dependency on manufacturing jobs. The secretary also highlighted various foreign investments in the state and the importance of education in enticing companies to locate in Kentucky.

At its fourth meeting, the committee heard discussion from educators and state employees regarding the 2005 state employees' health insurance plan. The committee received testimony from the president of the Kentucky Education Association; a retired school teacher; a school technology assistant; a school teacher; the mayor of Greensburg; the executive director of the Kentucky Association of State Employees; a state employee; Kentucky School Board Association; and the executive secretary of the Kentucky Retired Teachers Association.

In August, the committee reviewed administrative regulation 907 KAR 1:019 - Outpatient Pharmacy Program, Cabinet for Health and Family Services, Department for Medicaid Services. The committee, at the request of the Department of Medicaid Services, amended the regulation.

The committee did not take action on any prefiled bills.

SUBCOMMITTEE ACTIVITY

Budget Review Subcommittees

The Interim Joint Committee on Appropriations and Revenue is organized into six budget review subcommittees: Economic Development and Tourism, Natural Resources and Environmental Protection; Education; General Government, Finance and Public Protection; Human Resources; Justice and Judiciary; and Transportation. Their purpose is to review revisions to the enacted budget and to monitor the budgetary operations and programs of state government, as well as to address agency budget needs for the 2004-2006 biennium. None of the budget review subcommittees met during the 2004 Interim.

REPORT OF THE 2004
INTERIM JOINT COMMITTEE ON
BANKING AND INSURANCE

Sen. Tom Buford, Co-Chair
Rep. James Bruce, Co-Chair

Sen. Lindy Casebier	Sen. Julie Denton
Sen. Ernie Harris	Sen. Daniel Mongiardo
Sen. R.J. Palmer	Sen. Albert Robinson
Sen. Richard Sanders, Jr.	Sen. Larry Saunders
Sen. Dan Seum	Sen. Tim Shaughnessy
Rep. John Adams	Rep. Paul Bather
Rep. Sheldon Baugh	Rep. James Comer
Rep. Ron Crimm	Rep. Robert Damron
Rep. Mike Denham	Rep. Teddy Edmonds
Rep. Joseph Fischer	Rep. Danny Ford
Rep. James Gooch	Rep. J.R. Gray
Rep. Dennis Horlander	Rep. D. Pasley
Rep. Frank Rasche	Rep. Steve Riggs
Rep. Arnold Simpson	Rep. Brandon Smith
Rep. Roger Thomas	Rep. Tommy Thompson
Rep. Ken Upchurch	Rep. Susan Westrom
Rep. Rob Wilkey	

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

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 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 three times during the 2004 Interim.

The committee held its first meeting of the 2004 Interim on June 22. The committee discussed, with the acting director of the Office of Insurance, legislation proposed by the Office of Insurance but which failed to pass the 2004 Regular Session of the Kentucky General Assembly. This included discussion of House Bill 605 that pertained to the establishment of an interstate compact to regulate designated insurance products. Other legislation amended statutes on the Fire and Tornado Insurance Fund to, among other things, increase the retention limits from $500,000 to $1,000,000; broadened the statute on replacement of life insurance to apply to annuities and variable products; required an insurer to promptly return the unearned premium of any individual health insurance, individual Medicare supplement, and individual long-term care policies upon cancellation; and amended the statute that declared it an unfair and deceptive trade practice for an insurer to exclude coverage for a health condition in a health insurance policy based solely on the fact that the health condition is work-related, and provided that a health condition may be excluded if the condition, injury, or illness is work-related and the claimant is eligible for workers' compensation benefits.

The second meeting of the interim was held on September 13 in Covington in conjunction with the Kentucky Bankers Association Annual Convention. The committee discussed the proposed 2005 state employee health insurance plan with representatives of the Personnel Cabinet and the Cabinet for Health and Family Services. The committee was given an overview of the new plan and was told that the 2005 changes were needed for the state to continue to afford to provide coverage and to protect the financial interests of taxpayers. The committee also heard from a representative of the Kentucky Association of State Employees who said the plan was not fair to all state workers and was a plan that state employees could not afford to use.

The third meeting of the interim was held on November 23. The committee discussed proposed changes to KRS 360.100, the predatory lending law, with representatives of the American Association of Retired Persons and the Office of the Attorney General of Kentucky. It was recommended that the law be amended to, among other things, lower the points and fees trigger from 8 percent to 5 percent to broaden application of the law.

HOUSE MEMBERS COMMITTEE ACTIVITY

The House of Representatives members of the Interim Joint Committee on Banking and Insurance met once during the 2004 Interim, on August 24 and discussed the financial troubles of AIK Comp, a group workers' compensation fund. The executive director of the Office of Insurance gave an overview of the situation, including the Governor's executive order on August 3, 2004, transferring authority over self-insured workers' compensation groups from the Office of Workers' Claims to the Office of Insurance. The executive director discussed AIK Comp's consent to rehabilitation on August 5, 2004, and the Office of Insurance's efforts as rehabilitator.

REPORT OF THE 2004
INTERIM JOINT COMMITTEE ON
ECONOMIC DEVELOPMENT AND TOURISM

Sen. Katie Stine, Co-Chair
Rep. Eddie Ballard, Co-Chair

Sen. David Boswell
Sen. Julie Denton
Sen. Brett Guthrie
Sen. Alice Kerr
Sen. Vernie McGaha
Sen. Daniel Mongiardo
Sen. Joey Pendleton
Sen. Jerry Rhoads
Sen. Richard Roeding
Sen. Damon Thayer
Rep. Royce Adams
Rep. Carolyn Belcher
Rep. Kevin Bratcher
Rep. Buddy Buckingham
Rep. Perry Clark
Rep. Howard Cornett
Rep. Tim Couch
Rep. Jesse Crenshaw
Rep. Bob DeWeese
Rep. Ted “Teddy” Edmonds
Rep. C.B. Embry, Jr.
Rep. Bill Farmer
Rep. Charles Geveden
Rep. Keith Hall
Rep. Mike Harmon
Rep. Mary Harper
Rep. Jodie Haydon
Rep. Jeffrey Hoover
Rep. Dennis Horlander
Rep. Thomas Kerr
Rep. Stan Lee
Rep. Gross Lindsay
Rep. Thomas McKee
Rep. Charles Meade
Rep. Brad Montell
Rep. Ruth Ann Palumbo
Rep. Tanya Pullin
Rep. Dottie Sims
Rep. Ancel Smith
Rep. Brandon Smith
Rep. John Will Stacy
Rep. Tommy Thompson
Rep. Charles Walton
Rep. Mike Weaver
Rep. Robin Webb

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

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

TASK FORCE ON ECONOMIC DEVELOPMENT

Sen. Damon Thayer, Co-Chair
Rep. Ruth Ann Palumbo, Co-Chair

Sen. David Boswell
Sen. Julie Denton
Sen. Brett Guthrie
Sen. Alice Kerr
Sen. Vernie McGaha
Sen. Daniel Mongiardo
Sen. Joey Pendleton
Sen. Jerry Rhoads
Sen. Richard Roeding
Rep. Kevin Bratcher
Rep. Buddy Buckingham
Rep. Perry Clark
Rep. Tim Couch
Rep. Jesse Crenshaw
Rep. Bob DeWeese
Rep. Ted “Teddy” Edmonds
Rep. C.B. Embry, Jr.
Rep. Bill Farmer
Rep. Charles Geveden
Rep. Jeffrey Hoover
Rep. Dennis Horlander
Rep. Thomas Kerr
Rep. Stan Lee
Rep. Gross Lindsay
Rep. Charles Meade
Rep. Brad Montell
Rep. Dottie Sims
Rep. John Will Stacy
Rep. Tommy Thompson
Rep. Charles Walton
Rep. Mike Weaver

Sen. Katie Stine, Ex Officio
Sen. Eddie Ballard, Ex Officio

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; and travel promotion and advertising.

COMMITTEE ACTIVITY

During the 2004 Interim, the Interim Joint Committee on Economic Development and Tourism met six times. The Task Force on Economic Development met once during the course of the 2004 Interim.

The first meeting was held on June 17 in Frankfort. The secretary of the Commerce Cabinet gave an update on branding in the state of Kentucky. He said that the goal of branding was to develop a consistent message and logo that would sell the state in a more efficient manner. The secretary said cabinet officials would use an objective evaluation process that would utilize their skills and judgment. By using the same message to promote Kentucky, the state will have a unified message and will also save money. The brand will be licensed for use on merchandise and controls will be in place to ensure that the brand is being used appropriately and the state is collecting revenue from its use. Eighteen agencies submitted proposals to create this branding message with the understanding that the state would own their ideas

The commissioner of the Department of Parks gave an update on the department's initiatives regarding park maintenance, increasing customer satisfaction, training programs for employees, and long-range plans to make state parks self-sufficient. The commissioner discussed the State Park Commission, which will be comprised of professionals outside state government, that will help the Department of Parks to maintain a first-rate operation.

The meeting concluded with a presentation by the commissioner of the Department of Parks on the impact of the Tourism Development Act on recruiting new tourism attractions and assisting existing tourism businesses with renovations, expansions, and upgrades. Changes to the Tourism Development Act that would encourage greater development in rural areas are being considered. He said that other efforts are in place to increase tourism spending through film recruitment, railtrail projects, meetings, events, and conventions.

The committee's second meeting on July 15 was devoted to a discussion of railtrails in Kentucky. 2004 House Concurrent Resolution 8 required the committee to issue a report on the feasibility of developing the Lexington-Big Sandy railtrail, and officials from various state agencies and private interest groups were invited to testify.

The coordinator for the Rail Trail Development Office, Department for Local Government, provided an agency overview of the railtrail program in Kentucky. He said that as staff time has permitted, the agency has given technical assistance to anyone interested in initiating a railtrail project; however, he acknowledged that the program requires only a small percentage of his time. Railroad abandonment is monitored as it occurs, and the office is responsible for relaying that information to local officials and others who may be interested. Technical assistance is provided to interested parties, which includes railbanking information, funding sources, and other information needed to begin a project. The agency has been participating in the program for three years and has experienced 20 abandonments. Of the 20 abandoned rail corridors, 6 are currently in the railbanking process.

The coordinator gave an overview of a study conducted by the Transportation Center and the University of Kentucky. The study indicated that Kentucky has about 1,200 miles of abandoned railroad. Less than 1 percent has been used for recreational purposes. He said the Lexington-Big Sandy Trail is about 109 miles in length. The conditions of the corridor vary in certain areas, with portions of the corridor being automobile highway and informal ATV track, and some are clear but unused. He said most railtrail issues rely on funding. There are several federal funding sources that he recommends, such as the Land and Water Conservation Fund, the Transportation Enhancement Fund, and the Kentucky Trail Program. He said that with further planning and implementation, the program could advance.

The vice chairperson for the Kentucky Rails to Trails Council gave a presentation on railtrails in Kentucky. She said the Rails to Trails Council is interested in creating a Kentucky that is more than a pass-through state for tourists. The council's efforts are also focused on promoting health and fitness through the railtrail program. Materials were given to committee members that offered details of the obstacles that the railtrail program faces in Kentucky. Information provided showed that, when compared with other states in terms of railtrails, the railtrail program in Kentucky was underutilized.

The Rails to Trails Council contends that there are many benefits associated with the development of a railtrail: recreation, tourism, community events, habitat restoration, historic preservation, economic development, stewardship, and health and fitness. The Lexington-Big Sandy railtrail, if developed, would be the longest railtrail in Kentucky and one of the longest in the region. Running through six counties, it would connect diverse parts of the state and would serve as a magnet for tourists. To develop the trail, the vice chairperson of the council said that the council would like to see a full-time railtrail coordinator in state government and would like the General Assembly to create a special task force to assist the Lexington-Big Sandy project. She said support from local and city governments as well as state agencies would help the program move forward. Trail funding and public involvement are essential to make the program successful.

The director of the Real Estate division of CSX Transportation gave a presentation on railbanking and the development of railtrails. He said that the Lexington-Big Sandy rail corridor is not a candidate for railbanking because it has already been abandoned. The Lexington-Big Sandy corridor is no longer a contiguous corridor, with various sections now owned by private landowners and local governments. He said the proposed Lexington-Big Sandy railtrail project would be difficult to develop because of its current statutes, and because of property rights issues, determining ownership of all sections involved, and public opposition.

The Kentucky Heritage Council's staff archaeologist said the railtrail program would be an opportunity to integrate historic resources with natural areas and trails in a manner to bring economic revitalization to rural areas. The role of the Heritage Council in regard to the railtrail program comes from Section 106 of the National Historic Preservation Act, which requires federal agencies to take into account whether their activities will have an adverse impact on historic properties and architectural features associated with a rail corridor. He said the Heritage Council has neither been contacted nor had any input on the Lexington-Big Sandy project.

A staff member of the General Assembly's Judiciary Committee addressed liability and acquisition issues on railtrail projects. He discussed that railroad companies are required by law to provide notice of abandonment to the Surface Transportation Board. He also identified the offices where interested parties can find information on abandonment procedures. He also discussed federal and state railbanking and liability laws, the acquisition of easements, and recommendations given by the 1998 special task force on railtrails in Kentucky.

In conjunction with the Interim Joint Committee on Local Government, the committee's third meeting was held in Louisville on August 25. The mayor of Louisville gave a presentation on the successes and problems associated with the merger of the city of Louisville and Jefferson County. He said that because Louisville is now ranked as the 16th largest city in the United States, it is able to attract companies that would not have considered it before the merger. The mayor discussed the importance of the Tourism Development Act in recruiting new attractions to the area and in assisting existing tourism businesses with expansion. State economic development incentives have also played a crucial role in recruiting businesses to Louisville. He said that thousands of new jobs have been created in the city as a direct result of the incentives offered to new and expanding businesses.

The committee took a bus tour of economic and tourism development initiatives in Louisville Metro, which included the Kentucky Center for the Arts, the Muhammad Ali Center, the Louisville Slugger Museum, the Natural History and Science Center, and the Frazier Arms Museum. Afterward, the committee heard presentations by the Louisville Regional Airport Authority and United Parcel Service.

The fourth meeting of the committee was held on September 16 at the Toyota Motor Manufacturing facility in Georgetown. Toyota's manager of Community Relations welcomed committee members to the Toyota facility and gave a brief overview of the economic impact of the facility on Kentucky. He said that the facility is Toyota's largest production facility outside Japan and has more than 7,000 employees who reside in 76 Kentucky counties. Investment in the Georgetown facility is $5.3 billion, and it has an annual payroll of $519 million. There are more than 70 Toyota suppliers employing 35,000 people at 106 locations throughout the state.

Next, the commissioner of Financial Incentives and the director of Tax Incentives for the Kentucky Economic Development Cabinet (KEDC) outlined the Kentucky Industrial Revitalization Act (KIRA). KIRA was enacted in 1992 and amended several times in subsequent sessions. The program is targeted solely for existing industries that are at risk of eminent closure and have facilities or equipment that must be updated in order to retain existing jobs. While most tax incentive programs are designed to induce new investment for the purpose of creating new jobs, KIRA is designed to preserve existing jobs

Expenditures for fixed assets such as outdated equipment, structural issues, and infrastructure costs are eligible for tax incentives or "recovery" under KIRA. The incentives are threefold. First, a company can receive income tax credits tied to the state income tax liability generated from the facility. Second, recovery of credits against a corporation license tax dealing with the actual project is allowed. Finally, the company can recover 5 percent of the facility's payroll through the Job Revitalization Assessment Fee and apply the recovery to eligible costs. After an agreement between an eligible company and the KEDC has been finalized, the company has a 10-year period to use the incentives to offset the costs.

KIRA has been operational for approximately 13 years. Currently, there are nine active projects under final agreement that date back to 1994. KEDC is very careful with the use of KIRA. It is not always successful and is considered a last ditch effort to help companies remain viable.

The final item on the agenda was a presentation by the vice president of government and public relations with AK Steel Corporation, who discussed how KIRA has helped his company. He said AK Steel, after a number of years leading the industry, has become a victim of its own success. Most of AK Steel's competitors have gone bankrupt, shed their pension and retiree healthcare legacies, and have reemerged at significantly lower costs than AK Steel. As a result, AK Steel is trying to protect its employees, still compete, and lower company costs. He said the financing provided by KIRA has helped AK Steel in accomplishing this. The company has solid customers, including Toyota Motor Manufacturing. He noted that AK Steel has won awards for delivery and quality at Toyota's supplier award conference for the past 10 years.

Over the last two years, AK Steel wavered on the future of carbon steel making at both their plants. During the last year, there have been several changes in the company and they are now recommitted to carbon steel making. The state's investment in helping finance the Ashland project is part of that commitment. AK Steel currently employs approximately 1,200, has an annual payroll of approximately $70 million, and has a total economic impact of approximately $250 million in the region. AK Steel is committed to the Ashland plant and is grateful for the state's assistance through the KIRA program.

The committee held its fifth meeting in Frankfort on October 21. The meeting began with a presentation by the chairman of the Department of Communications Arts at Asbury College to discuss Asbury's involvement in television and film. The program began in 1982 and offers students six areas of study: production, media performance, film studies, media management, multi-media, and music recording.

At the program's beginning, Asbury had no idea that students could compete nationally and internationally in the media. Asbury developed an innovative model that was a mix of theory, classroom experience, and practical experience, with 75 percent of experience being in the classroom and 25 percent being practical application in the field. The chairman stated that in the last 10 years, more than 400 Asbury students have worked for networks throughout the United States and Canada, making them highly competitive in the job market. Asbury students have also been involved with the Olympic Games. After a stint with ABC Sports in 1980, Asbury's chairman said he realized how much experience and knowledge he had gained in just 16 days of hands-on experience. The college decided to use this as a model to give students a condensed education and so began pursuing the Olympics. Since then, students have been involved in six Olympics. Since 1984, Asbury College has been the only school invited to participate outside the Olympics' immediate area and they have been invited to the upcoming Turin and Beijing Olympics as paid employees. Since 2002, the International Olympic Committee has asked Asbury College to be responsible for training all student staff that will be working as paid broadcast personnel at the Olympics. During the Olympics in Salt Lake City, Utah, 600 students were trained, and in Athens, Greece, 1,200 were trained.

Another area the students are involved in is international travel with nonprofit agencies. In 1983, Asbury College students began helping nonprofit agencies through promotional and training material to be used in their respective countries.

Film studies is a new area for the department. Approximately seven years ago, Asbury created a satellite campus in Los Angeles because it felt Kentucky was missing a "film culture" and because there was a lack of productions in the state. During a student's junior or senior year, they spend a semester in Los Angeles interning with major studios.

The committee requested that the professor comment on what can be done by schools for the film and television industry in Kentucky. One suggestion is to provide production assistance. He pointed out that film production companies are interested in the local pool of help—the more workers brought into the state, the more expensive a project will be. He noted that Asbury students have been involved in almost every film in Kentucky in the last 10 years. Secondly, film companies need props. Since Kentucky does not have a large enough market for "prop houses," companies turn to schools. He said some schools could also provide facilities and equipment. Because Asbury has some of the highest-level television equipment, some television production companies, such as NBC, have rented equipment from the college when they are shooting locally.

The professor said that to encourage the film and television industry, the state could partner with colleges by helping fund programs and helping to create a pool of crafts people. Also, Asbury is exploring a new project for the Governor's School for the Arts: a film program at the college where 30 high school students could study film for a month. Another way to help would be to partner with colleges to create projects for the state. Asbury is currently working on two projects: documenting the Mars Probe with NASA and the University of Kentucky and creating three five-minute gun-safety videos for the Department of Justice.

The committee then received presentations from the secretary of the Commerce Cabinet and the director of the Kentucky Film Commission. The secretary said the film industry is important to the future of tourism in Kentucky. He explained that since the amount of state funding for tourism is the same as in 1968, the state needs more exposure with the same amount of money. He said the film industry is one way to achieve this. Films such as "Seabiscuit," "Dreamer," and "Elizabethtown" attract a lot of people to Kentucky without the state spending anything.

The secretary then covered several points that were of interest to the committee in previous meetings. He noted that in 1994, the Legislative Research Commission recommended there be a central reservation system in the Department of Parks. Although only having been online two months, 2,089 rooms have been booked online, creating $160,000 of revenue. Of those booked, 40 percent were by Kentuckians, the rest were from 37 states, the District of Columbia, three Canadian provinces, and two European countries. He noted this was achieved without any promotional money.

The secretary explained that outdated furnishing in the parks are being replaced by using savings accrued in other areas. He noted that Kincaid Lake State Park Golf Course is now open. He said the Capitol Annex cafeteria has made up a $200,000 deficit within the last six months and will soon be renovated using the increased funds. The Health and Human Services building cafeteria, taken over by the cabinet in February, now has a net income of $40,000 because of better food and service. He noted that the Transportation Building cafeteria income is also increasing.

The secretary explained that new controls have been implemented regarding ProCards. The Department of Parks credit limit was reduced from $8.1 million per month to $534,000 per month, and the number of cards reduced from 1,200 to 135 per month with a net savings of $465,000 in the first quarter of FY 05 while purchasing the same items.

He then discussed the branding program that is underway. He stated that the Governor will announce the rollout of the branding initiative next Tuesday at the Governor's Conference on Tourism. In the past, $14 million was spent on this endeavor through federal funds for the Justice Cabinet and Transportation Cabinet and forestry service funds for the Environmental Protection Cabinet for a combined savings of more than $2 million, which will go back in to branding and additional promotion. The Commerce Cabinet is working with the Farm Bureau, Kentucky Chamber, AIK, and other groups on the branding initiative. The new brand will be trademarked and used for merchandise, which will create a revenue stream to further promote Kentucky.

The director of the Kentucky Film Commission then discussed the mission and goals of the commission. He stated the film industry does more for the economy than people realize. He reviewed how the film industry affects Kentucky's economy, the incentives offered by Kentucky, and a comparison to other states' incentives. He said Kentucky has the qualities to attract production companies, but in order to do so, the state must become competitive in offering financial inducements to the film industry.

The general manager of Griffin Gate Marriott Resort and the chairperson of the Greater Louisville Convention and Visitors Bureau gave testimony on the economic benefits of film production to Kentucky businesses.

The president of the Kentucky Tourism Council (KTC) then gave a brief presentation on the council's annual tourism conference. She said the KTC has been in existence for 25 years and is the statewide association for Kentucky's tourism businesses. Their mission is to unite Kentucky's tourism industry through legislative and governmental interaction, industry awareness, advocacy, professional development, and communication. KTC has 460 member businesses throughout the Commonwealth. KTC is governed by a 30-member board. She said the private sector of the tourism industry is intertwined with public sector tourism in federal and state recreation areas and parks. Unlike other industries, tourism is affected greatly by the strength or lack of marketing by the state.

She said the Council's most successful partnership to date has been the Kentucky Tourism Industry Annual Conference. The KTC took over the conference 20 years ago when the state decided not to be involved in meeting planning anymore. The council produces the conference while state government sets the program and chooses speakers. The council also partners with the Kentucky Hotel and Lodging Association.

Although marketing is left primarily to council members and state government, KTC has several programs that it takes great pride in. In 1996, its Web site was the first statewide tourism Web site to be launched. The site is highly visited by potential tourists and industry. She said this year the council participated in The Great Getaway Guide with the Commerce Cabinet by selling advertising. KTC also prints the Travel Values Book. KTC's newest venture is the Meeting Planners' Guide to Kentucky, which was designed to market Kentucky's small- and medium-size meeting sites. She said it would be distributed to 6,000 meeting planners across the country.

The final meeting of the committee was held in Frankfort on November 18. Broadband Internet deployment was discussed initially, with the committee hearing presentations from BellSouth's vice president of regulatory and external affairs, and from the president of the Kentucky Internet Service Providers Association (KISPA).

BellSouth's representative said the 2004 Broadband Parity Act has made a significant and positive impact across the state by removing some of the unnecessary state regulatory barriers and encouraging companies to further expand broadband services to rural areas. She said broadband access is vital to Kentucky's growth and competitive future. According to a connectKentucky report, broadband deployment will generate up to 14,000 jobs in various industries and create $5 billion in revenue over the next 10 years. She noted that competitors can still get broadband on a wholesale basis, and BellSouth's wholesale and retail pricing have been reduced. Although the Parity Act was a great start, she said there is still much to be done by reforming laws and regulations on a national level.

The committee asked why the task force created in House Bill 627 had not been formed. The president of KISPA said there are still parity issues around the state and the task force would give them the opportunity to be a part of any parity discussions. He said HB 627 prevents them from turning to the Public Service Commission to resolve issues. The KISPA president noted that while some broadband access charges from BellSouth have been lowered, independent providers have received no wholesale discount.

Next, the director of Law Enforcement with Kentucky Fish and Wildlife Resources briefed the committee on boat motor regulations and guidelines. He said boat registrations were at an all-time high of 176,000 with more than 120 million lake visits reported and only nine fatalities statewide in 2004. The director said that in 1998, HB 1 mandated a boater education course for youths between the ages of 12 and 17 to operate a vessel over 10 horse power. Also in 1998, the first Boating Under the Influence legislation was passed and penalties were doubled in 2000. He said that while boating officers make enforcement contacts with 150,000 people per year, they issue citations to less than 10,000. The other 140,000 contacts are used to inform people about laws and safety concerns. The director said all 145 wildlife boating officers are Police Officer Professional Standards Certified, attend 16-week basic training, a 9-week wildlife and boating course and spend another 10 weeks with a field training officer.

The *Report of the Interim Joint Committee on Economic Development and Tourism: A Committee Study of the Lexington/Big Sandy Railtrail* (2004 House Concurrent Resolution 8) was reviewed by the committee and approved by voice vote.

A representative from the Governor's Office for Local Development, which oversees the Rails-to-Trails Office, said there was great value in the rails-to-trails program. He noted that through reorganization the program was moved to the Division of Grants for funding purposes because it had not been funded since HB 221 passed in 2000. He said consolidating the program with the recreational trails and land and water grants program rails-to-trails would receive more funding through federal sources. He also said they plan to meet with all agencies involved in the rails-to-trails initiative to develop a strategy, issue a manual, to evaluate funding sources, and to create a plan to disseminate this information to local governments.

Finally, representatives from northern Kentucky, Greater Louisville, Inc., and University of Louisville (UofL) discussed Kentucky's inflow and outflow of tax revenue. A professor of economics from UofL presented *Kentucky's Economic Competitiveness; A Call for Modernization of the State's Fiscal Policies*, a report by UofL that was funded by various chambers of Fayette County, northern Kentucky, and Jefferson County. He stated that Kentucky ranks nearly last in every economic performance area. Based on the report, this is due to several reasons. First, there is a misconception that Kentucky is an agricultural state when agriculture makes up only 3.5 percent of the state's payroll. Kentucky's nine metropolitan areas contain more than half (2.4 million) of its residents. Micropolitan areas, which have at least 20,000 residents and are regional employment centers, contain about 700,000 people. Just over half (61) of the state's counties are either in metropolitan or micropolitan areas and contain a total of 3.1 million residents.

Although about 3.5 million manufacturing jobs have been lost nationally since 1990, the U.S. economy added more than 5 million professional and business services in the last decade, averaging $60,000 gross salary per year. Kentucky ranks 46th in its ability to capture white collar jobs. He said these types of operations tend to locate in large labor markets, near airports, near clusters of similar types of firms, and near university graduate programs in order to keep people trained. Urban areas in Kentucky have the highest college-attainment rates, and there is a clear correlation between formal education and income. He said no Kentucky county is above the national average in either measure. In metro area peer comparisons, Louisville fared poorly in nearly every category—job growth, population growth, education, office economy jobs, average earnings, etc. He stated Lexington is doing better than other Kentucky cities, due probably to manufacturing growth.

They concluded that every city in the state is losing in the competition with other states. North Carolina is now one of the fastest growing states in the nation. Louisville's chief competitor, Nashville, in the last year and a half has attracted six corporate headquarters that average more than $1 billion in sales. Louisville has lost three. Comparatively, Kentucky has a high state income tax along with the other taxes levied, such as property and sales taxes. They said outdated regulations, tax structure, and spending formulas have made the entire state noncompetitive. This must change for Kentucky to move forward.

SUBCOMMITTEE ACTIVITY

Task Force on Economic Development

On September 16, the Task Force on Economic Development met at the Toyota Motor Manufacturing facility in Georgetown to discuss the horse industry and its importance to Kentucky's economy. The executive director of the Kentucky Equine Education Project (KEEP) was invited to testify on the state's number one cash crop—horses.

The executive director of KEEP said that horse farming is an agribusiness unparalleled in its contribution to Kentucky's tourism industry and unmatched in its ability to attract investment to Kentucky. The state's population of more than 200,000 horses reaches into nearly every county. Kentucky's multi-breed horse industry contributes over $4 billion to Kentucky's gross domestic product and creates an estimated 100,000 jobs. Aside from its economic importance, horses also define Kentucky to the rest of the world.

The executive director stated that the day has passed when prospective horse farmers locate their farms in Kentucky simply because of its history and tradition. Kentucky has fallen behind other states for several reasons, the first being Kentucky's tax policies. Horse farmers pay 6 percent sales tax on in-state horse purchases, on stud fees, and on feed and supplies. Purchases for other livestock are exempt from the sales tax on feed and supplies. Another reason for Kentucky's declining position in the horse industry is that other states offer lucrative owner, breeder, and purse incentives to attract horses from out of state. There has been a decrease in the number of Kentucky-sired foals born in Kentucky and an increase in the number of Kentucky-sired foals born in other states so that they may capture some of the incentives offered.

The thoroughbred stallion population has decreased from 626 in 1986 to approximately 370 today. The standardbred industry has suffered an even worse decline.

KEEP's main mission is to educate all Kentuckians about the economic significance of Kentucky's horse economy. KEEP finds that this educational effort is the key to preserving and promoting the equine industry. To do this, KEEP is recruiting leaders in every county to act as ambassadors for the horse industry. KEEP's other mission is to unite all breeds with a single goal of strengthening Kentucky's horse economy and, as a result, creating additional jobs and economic opportunities for Kentuckians. KEEP also seeks the Kentucky General Assembly's assistance in addressing the state's tax policies as they impact the horse industry and to provide more funding for the Kentucky Thoroughbred Development Fund.

The co-chair of the task force stated that during the 2004 session of the General Assembly, legislation was offered that would have eliminated the feed, fencing, and farm equipment sales taxes levied on horse farmers. It was explained that no other Kentucky livestock farmer is taxed for those items. Another bill was offered that eliminated the sales tax on stud fees. No other state imposes this tax on its horse farmers.

The executive director of KEEP was invited to testify again before the Economic Development and Tourism Committee during the 2005 Regular Session of the General Assembly.

REPORT OF THE 2004
INTERIM JOINT COMMITTEE ON EDUCATION

Sen. Lindy Casebier, Co-Chair
Rep. Frank Rasche, Co-Chair

Sen. Walter Blevins
Rep. Buddy Buckingham
Rep. Mike Cherry
Rep. Jack Coleman
Rep. Hubert Collins
Rep. Jon Draud
Rep. Ted "Teddy" Edmonds
Rep. C.B. Embry
Rep. Bill Farmer
Rep. Tim Feeley
Rep. Derrick Graham
Sen. Brett Guthrie
Rep. Mary Harper
Sen. David K. Karem
Sen. Alice Forgy Kerr
Rep. Mary Lou Marzian
Sen. Vernie McGaha
Rep. Reginald Meeks
Rep. Charles Miller
Rep. Harry Moberly
Rep. Russ Mobley
Sen. Gerald Neal
Rep. Rick Nelson
Sen. R.J. Palmer II
Sen. Jerry Rhoads
Rep. Tom Riner
Sen. Dan Seum
Rep. Charles Siler
Rep. Arnold Simpson
Rep. Dottie Sims
Rep. Kathy Stein
Sen. Gary Tapp
Rep. Jim Thompson
Rep. Charles Walton
Sen. Jack Westwood
Sen. David L. Williams

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

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON ELEMENTARY AND SECONDARY EDUCATION

Sen. Lindy Casebier, Co-Chair
Rep. Jim Thompson, Co-Chair

Sen. Walter Blevins
Rep. Mike Cherry
Rep. Jack Coleman
Rep. Hubert Collins
Rep. Jon Draud
Rep. Ted Edmonds
Rep. Tim Feeley
Rep. Derrick Graham
Sen. David Karem
Sen. Alice Forgy Kerr
Rep. Harry Moberly
Sen. Brett Guthrie
Rep. Rick Nelson
Sen. Jerry Rhoads
Rep. Arnold Simpson
Rep. Charlie Walton

Rep. Frank Rasche, Ex Officio

SUBCOMMITTEE ON POSTSECONDARY EDUCATION

Sen. Jack Westwood, Co-Chair
Rep. Mary Lou Marzian, Co-Chair

Rep. Bill Farmer
Rep. Mary Harper
Rep. Charles Miller
Rep. Russ Mobley
Sen. Gerald Neal
Sen. R. J. Palmer II
Rep. Tom Riner
Rep. Charles Siler
Rep. Dottie Sims
Rep. Kathy Stein
Sen. David Williams

Sen. Lindy Casebier, Ex Officio
Rep. Frank Rasche, Ex Officio

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; and educational television.

COMMITTEE ACTIVITY

The Interim Joint Committee on Education met four times during the 2004 Interim.

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

The 2004 Interim was kicked-off with an Education 2004 Showcase held in the Capitol Annex that displayed selected programs to show a continuum of educational services for students from early childhood through adult education. Students, faculty, and administrators from 16 schools and institutions explained their displays and activities to members of the Interim Joint Committee on Education, LRC staff, and the general public.

Major topics before the Interim Joint Committee on Education included a presentation by the Commissioner of Education and selected local school superintendents relating to the progress of Kentucky's elementary and secondary education system since 1990 and the challenges ahead if Kentucky is to meet its academic achievement goals by 2014; discussions of Kentucky's assessment and accountability system, the Commonwealth Accountability Testing System (CATS), including the 2004 CATS Results and the implementation of the federal law "No Child Left Behind"; and a presentation by the Governor called "Education Vision." Other topics included a report relating to Kentucky's postsecondary education goals and strategic planning process.

The committee conducted one meeting at the University of Louisville at which time several presentations of research initiatives and collaborative projects between elementary and secondary education institutions and the university were presented. The committee also toured the Early Learning Village in Jessamine County to learn about the Jessamine County's districtwide approach for providing comprehensive services to preschool and kindergarten children, including integrated services for students with disabilities.

In performing its statutory legislative oversight responsibilities, the committee had 11 administrative regulations for consideration under the review process established in KRS Chapter 13A. The committee also reviewed Executive Order 2004-725.

SUBCOMMITTEE ACTIVITY

Subcommittee on Postsecondary Education

The Subcommittee on Postsecondary Education met two times during the 2004 Interim. In August, the subcommittee heard presentations regarding the Council on Postsecondary Education's review and revision of its long-term strategic plan for postsecondary education in Kentucky and the comprehensive review of the postsecondary education funding model. The new president of Kentucky State University shared her perspective on the institution's current status and aspirations for the future of the institution. In November, the subcommittee heard a presentation regarding collaborative postsecondary education and workforce initiatives being implemented in Louisville.

Subcommittee on Elementary and Secondary Education

The Subcommittee on Elementary and Secondary Education met three times during the interim. Two of the meetings included progress reports provided by staff from the Kentucky Department of Education, the Council on Postsecondary Education, and the Education Professional Standards Board. Members heard discussion related to the state-approved secondary GED preparation option, the study of the two-year teacher internship program, the findings of the recently completed technical education access study, and proposed modifications to the Support Education Excellence in Kentucky (SEEK) school funding formula.

Members traveled to Buckner Elementary School in Oldham County for one subcommittee meeting where they heard district personnel discuss student assessment, strategies for success, and effective instructional practices. A tour of the school provided an opportunity to observe classroom instruction.

REPORT OF THE 2004
SPECIAL SUBCOMMITTEE ON ENERGY

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

Sen. Charlie Borders
Sen. David Boswell
Sen. Ernie Harris
Sen. Alice Forgy Kerr
Sen. Vernie McGaha
Sen. Joey Pendleton
Rep. Royce Adams
Rep. Rocky Adkins
Rep. Eddie Ballard
Rep. Carolyn Belcher
Rep. Jim Bruce
Rep. Buddy Buckingham
Rep. Dwight Butler
Rep. Bob DeWeese
Rep. J.R. Gray
Rep. Thomas Kerr
Rep. Lonnie Napier
Rep. Rick Nelson
Rep. Fred Nesler
Rep. Tom Riner
Rep. Brandon Smith
Rep. Charles Walton
Rep. Brent Yonts

LRC Staff: D. Todd Littlefield and Rhonda Carter

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SPECIAL SUBCOMMITTEE ON ENERGY

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

SUBCOMMITTEE ACTIVITY

The subcommittee was introduced to the new executive director, chair and members of the Public Service Commission. Also introduced were the new deputy executive director and the legislative liaison.

The director of the Kentucky Consortium for Energy and the Environment gave a presentation to the subcommittee covering topics including energy supply and demand in the state, and the fortunes of crude oil in the U.S. and coal in Kentucky. He urged a focus on new in-state, value-added coal use and advocated both the Peabody Thoroughbred project and the Department of Energy's Futuregen project. The other challenges for the state are to maintain existing markets for export coal, to recover coalbed methane and natural gas, and to develop renewables. The secretary of the Commerce Cabinet assured the subcommittee that the state would be pursuing the Futuregen project.

The senior vice president of ICAP Energy told the subcommittee that ICAP is the largest wholesale institutional energy broker in the world. He noted that the price for eastern coal had doubled in the previous 12 months and coal inventories are down. He discussed the role of the broker in the wholesale energy market.

The outlook for natural gas prices and other winter fuels was presented by the communications director for the Public Service Commission. In spite of adequate reserves in storage, prices are expected to remain high in the foreseeable future. Greater supply/demand imbalances are expected to increase price volatility.

The subcommittee heard from a large panel of Transportation Cabinet officials concerning the ability of Kentucky's infrastructure to adequately provide for the transportation of coal from mine to market. Revenue from over-weight decals and enforcement penalties has been insufficient to cover the increased maintenance costs for roads damaged by coal traffic.

The director of the Division of Energy and the executive director of the Kentucky Clean Fuels Coalition gave a comprehensive look at the benefits of alternative fuels to the farmer and the environment. They reported that significant reduction in pollution and dependence on foreign oil could be achieved by increased use of biofuels such as ethanol and biodiesel. Such increased use would, in turn, boost the price of agricultural feedstocks such as corn and soybeans.

The manager of generation technologies from American Electric Power presented a report on clean coal technology advances focussing on Integrated Gasification Combined Cycle (IGCC). Of the currently available processes, IGCC has the lowest emissions of any coal-based technology and works best with eastern coal. One key will be keeping down the cost of capturing and dealing with carbon dioxide, but it is hoped that when IGCC technology matures, it will be key to keeping coal viable as an energy source.

REPORTS RECEIVED

The subcommittee received the FY 2004 semi-annual Low Income Home Energy Assistance Program block grant status report.

BLOCK GRANT APPLICATION REVIEWED
PUBLIC HEARING HELD

The Low Income Home Energy Assistance Program (LIHEAP) is a federal program that grants funds to states to provide help to low-income households with home heating and cooling costs and with weatherization of their homes. State law requires that a jurisdictional committee review all block grant applications. Federal law requires that a public hearing be held, soliciting comments on the block grant application for the coming year. The special subcommittee held a review and public hearing on June 18 on the federal fiscal year 2005 LIHEAP block grant application. Testimony was taken from representatives of the Division of Family Support; Cabinet for Families and Children; and the Kentucky Association for Community Action, which administers the program. The subcommittee voted unanimously that the application met the standards and criteria set forth in KRS 45.353.

RESOLUTION PASSED

By voice vote, the subcommittee unanimously passed a resolution memorializing the late Senator Paul Herron.

REPORT OF THE 2004 INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

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

Rep. John Arnold
Rep. Paul Bather
Rep. Charlie Borders
Sen. Tom Buford
Rep. Brian Crall
Rep. Bob Damron
Rep. Bob DeWeese
Rep. Mike Harmon
Rep. Jimmy Higdon
Sen. Bob Jackson
Rep. Joni Jenkins
Sen. David Karem
Rep. Mary Lou Marzian
Rep. Steve Nunn
Rep. Ruth Ann Palumbo
Rep. Jon David Reinhardt
Sen. Richard "Dick" Roeding
Sen. Ernesto Scorsone
Rep. Ancel Smith
Rep. Kathy Stein
Sen. Katie Stine
Sen. Damon Thayer
Sen. Elizabeth Tori
Sen. Johnny Ray Turner
Rep. Susan Westrom

LRC Staff: Robert Jenkins, Barbara Baker, Eric Clark, DeeAnn Mansfield, Nadezda Nikolova, Murray Wood, Gina Rigsby, and Cindy Smith

PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION AND THE 2005 REGULAR SESSION OF THE KENTUCKY GENERAL ASSEMBLY

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON FAMILIES AND CHILDREN

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

Sen. Charlie Borders
Sen. Tom Buford
Rep. Bob DeWeese
Rep. Joni Jenkins
Sen. David Karem
Rep. Mary Lou Marzian
Rep. Steve Nunn
Rep. Ruth Ann Palumbo
Rep. Jon David Reinhardt
Sen. Richard "Dick" Roeding
Rep. Ancel Smith
Rep. Kathy Stein
Sen. Damon Thayer
Sen. Elizabeth Tori
Sen. Johnny Ray Turner
Rep. Susan Westrom

Sen. Julie Denton, Ex Officio

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, podiatrists, and chiropractors; dentists and dental specialists; nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; and physical therapists.

COMMITTEE ACTIVITY

During the 2004 Interim, the Interim Joint Committee on Health and Welfare held six meetings, including one out-of-town meeting in Louisville and a joint meeting with the Program Review and Investigations Committee. The committee was organized into one subcommittee, the Families and Children Subcommittee. The following is a summary of the activities by the committee and subcommittee.

Major Issues Considered by the Committee

Children's Issues

Early Childhood Development Initiative Update

The executive director of the Division of Early Childhood Development, Department of Education, testified that the division's goal is that all young children in Kentucky be healthy and safe, possess the foundation that will enable school and personal success, and live in strong families that are supported and strengthened within their communities. To achieve this goal, it is essential that 25 percent of Kentucky's Phase I Tobacco Settlement dollars continue to fund the early childhood initiative, KIDS NOW. There is a collaboration with the Tobacco Prevention and Cessation Program to use the Healthy Babies television advertisements from January through June of 2004.

Updates were presented on the Oral Health Education and Prevention Program, the Early Childhood Mental Health Program, and the STARS for KIDS NOW Program. In 2004, approximately 485 Quality Incentive Awards have been disbursed at a cost of $368,900, and approximately 302 Achievement Awards have been disbursed at a cost of $112,000.

The 2002-2003 evaluation of the KIDS NOW initiative demonstrates the rapid implementation of components throughout the state. The University of Kentucky and the University of Louisville collaborated to evaluate programs using an integration of data from surveys, face-to-face interviews, and classroom observations that indicated five key findings: (1) center-based child care programs in Kentucky are improving in quality but improvement is still needed; (2) knowledge and participation in the KIDS NOW initiative are related to overall center quality; (3) enhanced efforts to promote the KIDS NOW initiative have increased familiarity to it; (4) leadership impacts participation in and perceived benefits of the initiative; and (5) urban and rural differences exist in the way child care providers participate in and perceive the benefits of the components of the KIDS NOW initiative. The evaluation team recommends to continue efforts to increase the numbers of licensing professionals to ensure a 1:50 ratio; to continue support centers' participation in the early care and education components of the KIDS NOW initiative; to ensure targeted training and technical assistance to programs serving high numbers of children on subsidy and infant and toddler programs serving children with disabilities; and to provide training on working effectively with families faced by poverty, discrimination, and other stressors.

First Steps

The director of the Division of Adult and Child Health Improvement discussed the transition of the First Steps Program to the Cabinet for Health and Family Services from the Commission for Children with Special Health Care Needs. First Steps is Kentucky's Early Intervention System that serves approximately 5,000 children from birth to age three who have a developmental delay or a particular medical condition that is known to cause a developmental delay. Concerns had been raised about the possible elimination of services to newly eligible children or to children already receiving them. The program had a deficit of approximately $3.6 million dollars in fiscal year 2003.

Effective March 1, 2004, the cabinet initiated the following three-tiered redesign to address the concerns about the program and to eliminate the budget deficit: (1) reorganization with a clinical approach that assigns oversight responsibility to physicians; (2) creation of a Policy and Provider workgroup that includes parents, providers, and Interagency Coordinating Council members to address administrative and clinical issues; and (3) development of a care/benefit management approach to administer the program.

Families

Domestic Violence and Spouse Abuse Services in Fayette County

The executive director of the Kentucky Domestic Violence Association (KDVA) discussed the proposed closure of the YWCA domestic violence shelter in Fayette County. The KDVA has decided not to renew its subcontract with the YWCA of Lexington to provide domestic violence services in the Bluegrass Area Development District beginning July 1, 2004. The KDVA participated in a community forum on June 15, 2004, to explain the tentative plan, distribute a community input survey, and collect information on interested contributors and donors. The KDVA New Shelter Trust Account was established at a local bank to receive monetary contributions for a new domestic violence program.

Current shelter residents and nonresidential clients will be transferred to other regional domestic violence programs or a temporary local facility for services. Crisis-line services will continue using the current crisis line phone number. Victims in emergency shelters and those who need services will continue to have access to these services by calling the crisis line. Callers will be referred to either another regional domestic violence program or to a local emergency shelter, depending on individual needs and available space.

As of July 1, 2004, KDVA will appoint a steering committee consisting of two domestic violence program directors and five Bluegrass area community members whose purpose will be to (1) review and utilize input from the community forum; (2) become familiar with KDVA's revised Victim Service Standards and the Kentucky administrative regulations relating to state-funded spouse abuse programs; (3) research and locate building options; (4) complete paperwork for forming a nonprofit corporation; (5) establish a charter, vision and mission statements, articles of incorporation, 501(c)(3) status and bylaws; (6) select a new name for the program; (7) advertise for and hire an executive director; and (8) recruit and form a regional Board of Directors for the new program.

Elder Abuse

A staff analyst for the LRC Program Review and Investigations Committee presented an updated report titled *Kentucky Can Improve the Coordination of Protective Services for Elderly and Other Vulnerable Adults.* Major findings from the initial report, presented in December 2003 were (1) Kentucky's adult protective services process is well designed; (2) in practice, the process has problems; (3) administrative regulations are not specific; (4) operating procedures and official forms differ among regions and counties; (5) agencies disagree on how to apply the criteria for investigation; (6) information may be faxed to police when a phone call could be better; (7) many law enforcement officials, prosecutors, and judges are unaware of KRS Chapter 209 and criminal penalties; (8) there have only been 34 convictions in four years; (9) law enforcement, prosecutors, and courts are not required to notify the Department for Community Based Services (DCBS) of outcomes; (10) the DCBS does not always notify other agencies of outcomes; (11) lack of basic communication within state agencies sometimes undermines the goal of protection of vulnerable adults; and (12) no dedicated federal funding is provided, but federal grants are available.

The initial recommendations were that (1) DCBS standards of practice should be revised to identify specific conditions under which its workers must call a specified law enforcement agency to explain the situation, in addition to faxing a DSS 115 form; (2) DCBS should develop a standardized DSS 115 form that provides information on the potential crime; (3) DCBS should assign a social services priority code to each law enforcement referral; (4) training on adult abuse, neglect, and exploitation should be mandatory and timely for DCBS social workers, law enforcement officers, prosecutors, and judicial officials; and (5) CHFS and other state agencies should establish new and renewed relationships among themselves and other local agencies and advocacy groups to provide training, share information, and promote awareness of adult abuse, neglect, and exploitation.

Updated recommendations include the creation of an office or unit within the Office of the Governor to oversee the coordination of adult protective services; facilitate communication among people; facilitate interagency staff access to information in computer systems; facilitate coordination among systems; identify and coordinate federal grants; and explore how to share confidential information if abuse is suspected. Various state agencies should work together to research, compile, and disseminate information on best practices for investigation of elder abuse cases. The best practices should be incorporated into agencies' policies and emphasized in interagency and multidisciplinary training.

The DCBS should define "substantiated" and "unsubstantiated" cases of elder abuse as part of its process to determine priority coding for case reporting. DCBS should compile statewide and county-level data on allegations accepted for investigation and the outcomes of those investigations by type: abuse, neglect, and exploitation. Statewide and county-level data should be shared with other investigating entities and local coordinating councils. DCBS should dedicate more social workers to adult protective services, and these workers should receive mandatory and timely training on conducting investigations of abuse, neglect, and exploitation of adults. DCBS should work with law enforcement officials to determine the specific information needed for criminal investigations so that reporting forms can be changed accordingly.

The Cabinet for Health and Family Services and the Justice and Public Safety Cabinet should work together, in consultation with the Administrative Office of the Courts, to design and implement information system interfaces among the various computing systems administered by those agencies. Objectives should include the ability of staff working on a case in an agency to find all related cases at other agencies; security so that staff at one agency may view only information at other agencies that is permitted for their role; automated exchange of data between systems where it is found to be appropriate and efficient; case cross-checks to find current and previous involvement of victims and perpetrators with all agencies; and automated notification of changes in perpetrator status and location.

The Cabinet for Health and Family Services should fully fund a full-time long-term care ombudsman office in each area development district. The Governor's Office and the cabinet should explore the use of federal grants and other dedicated state money to supplement the civil monetary penalties used to fund the ombudsman offices.

Health Care

Home Health Care Services

The executive director of the Kentucky Home Health Association and the clinical manager of VNA Home Care stated that Kentucky's efforts to implement a Medicaid disease management program should include the current home health care provider network as key players to ensure an integrated approach to care delivery and expected patient outcomes. Home health care can support and reinforce behaviors only if they know what methods are being used and what the desired behaviors are.

The Kentucky Home Health Association supports consumer-directed care initiatives within Medicaid and other programs providing long-term care services to Kentucky's frail elderly and persons with disabilities. Home services are critical to ensuring some individuals are able to remain at home and encompass an array of important services for the frail and disabled such as changing bed linens, laundry, cleaning the bathroom and kitchen areas, grocery shopping and meal preparation, and light housekeeping. Due to some difficulties in the First Steps Program, some home health providers have stopped providing services. The department's statements that service reductions or program management changes in First Steps would help the program stay within budget may be misplaced. If adequate care is to be provided, the executive director said that services must continue to be given under the Early Periodic Screening and Diagnostic Testing program and through traditional services.

University of Louisville Life Sciences Initiative

The president of the University of Louisville discussed the university's efforts to become a preeminent metropolitan research institution as required by the Postsecondary Education Improvement Act of 1997. The university's research priorities focus on cancer, heart conditions, neurosurgery, pediatrics, ophthalmology, the Center for Deterrence of Bioterrorism and Biowarfare, transplantation research, proteomics platforms, and the birth defects center.

Research outcomes have brought new economic opportunities for technology transfer, licenses and patents, and biotech spin-offs, as well as new treatments for cancer, hearts, surgical recovery, and transplantation. Education highlights include a Paris Simulation Center, a standardized patient program, and personal digital assistants for every medical and dental student. Outreach highlights include the Trover Clinic in Taylor County; service programs such as "Smile! Kentucky"; the Center for Bioethics, Health Policy and Law; the Owensboro cancer partnership with Large Scale Biology and Owensboro Hospital; and collaboration with Caldwell County, Warren County, and the Jefferson County Public Schools for the use of computers.

The UofL president stated that the Cardiovascular Innovation Institute conducts research and development of heart assist devices, builds upon the reputations of two of its leading physicians, has a partnership with Jewish Hospital and the Commonwealth, receives support from the Kosair charities, has a new facility in the Louisville Medical

Center, and will enhance economic development in the biotech arena. The goals of the James Graham Brown Cancer Center are to improve cancer care and treatment, achieve National Cancer Institute designation, and bring quality cancer care close to home. The center has more than 100 leading cancer researchers and clinicians. The center has raised $41.5 million in a private fundraising campaign and has moved into a new research building.

Louisville Medical Center Development Corporation

The mayor of Louisville, the president and CEO of the Louisville Medical Center Development Corporation (LMCDC), the CEO of Potentia Pharmaceuticals, Inc., and the director of core proteomics at the University of Louisville discussed the creation and achievements of the LMCDC. Approximately 12 years ago, the idea for the medical development corporation arose with the goal to achieve participation from all the downtown hospitals and the university medical school. Today Jewish Hospital, Norton's Healthcare, the University of Louisville's Hospital, and Metro Louisville coordinate to make LMCDC a reality. LMCDC works to attract researchers and companies to Louisville to help with research and economic development.

As part of the LMCDC efforts, MedCenter Three was allocated a $5 million state appropriation and a $5 million Kentucky Innovation Act grant. The LMCDC has real estate investments of $27 million, with 9.5 acres acquired. About 230,000 square feet of space has been developed, and 204,000 square feet is occupied. There have been 3 early-stage companies and 18 start-ups involved. The challenges that lie ahead are to (1) make life science commercialization the primary economic development focus of the region; (2) align the university's vision with the community's life science commercialization focus; (3) create a significant life science investment capital pool of $25 million to $30 million and link with regional and national funds to access $100 million; (4) build capacity of commercialization infrastructure between the University of Louisville Office of Technology Development and MetaCyte Business Lab; (5) focus Bucks for Brains investments on areas of the greatest commercialization potential; (6) leverage the university's liberal tech transfer policy in recruiting top researchers; (7) build a life science workforce and entrepreneurship base; (8) continue development of the Research Park to achieve critical mass; (9) attract and build 30 companies in the next six years; and (10) expand the base of support among corporate, foundation, and government stakeholders.

Charitable Pharmacies

The director of the St. Vincent dePaul Community Pharmacy in Erlanger stated that charitable pharmacies were able to serve low-income citizens who have no means to obtain prescription medicines. Her pharmacy serves 14 counties and has 1,300 clients, with 40 to 50 volunteers who log 5,000 hours per month to deliver $2.6 million in drugs. Recipients must live in the northern Kentucky area and have no prescription drug insurance. The drugs are donated by area physicians, and grants are written to buy generics and insulin.

Hospice/Palliative Care Services

The executive directors of Hospice of Louisville and Hospice Care Plus in Richmond testified that Executive Order 2004-122 disallows the processing of Certificate of Need applications filed by licensed hospice programs that propose the establishment of residential hospice facilities. This limited moratorium curtails hospice's ability to meet the needs of the dying in Kentucky. Hospice is uniquely designed to provide for the patient at the end of life, ensuring management of pain and symptoms. A growing number of hospice patients are in need of the full continuum of hospice care, which includes inpatient residential facilities. The availability of these beds would decrease the use of emergency room visits and inpatient hospital beds, thus decreasing Medicaid costs.

Federal hospice regulations established four levels of care in 1983 that continue today: routine home care, continuous home care, inpatient respite care, and general inpatient care. Medicare mandates that all programs provide the full range of services including inpatient and respite. In 2003, Kentucky hospice programs cared for 12,237 patients with an average length of stay of 27 days and received 83.5 percent reimbursement for Medicare and 7.6 percent from Medicaid. Hospice programs typically receive approximately $98 per day to care for all of a patient's needs, including drugs, medical equipment, and supplies related to a terminal illness.

Medicaid

Transportation Delivery Services in Jefferson County

The executive director of the Office of Transportation Delivery, Transportation Cabinet, and the deputy commissioner of the Department for Medicaid Services, Cabinet for Health and Family Services, discussed the delivery of nonemergency transportation services in Jefferson County offered through the Medicaid program. Nonemergency transportation is divided among 15 regions across the state. A regional broker negotiates with local transportation providers, such as taxi drivers and ambulance services, to develop an efficient and economical system. In Jefferson County, transportation providers had complained that the broker was basing payment upon an unrealistic standard. This standard, a mileage rate for the shortest distance, did not take into account traffic patterns, congested routes, and construction delays.

The Transportation Cabinet promised to analyze subcontractor rates, confer with Medicaid officials, and meet with the broker to resolve provider concerns. Various providers stated that the broker had not contacted them to discuss the reimbursement standard, while others expressed concern about the financial hardship created. A broker representative stated that providers have always had the opportunity to receive a higher reimbursement simply by offering an explanation of need. Providers stated that this explanation was impractical due to the high volume of nonemergency transportation services.

Long-term Level of Care Regulation

The deputy commissioner of the Department for Medicaid Services, Cabinet for Health and Family Services, stated that 907 KAR 1:022, which defines eligibility criteria for nursing facilities and the home- and community-based waiver, had been amended under an agreed settlement with plaintiffs in a federal lawsuit. The prior governor's administration had altered the eligibility requirements in April 2003, and additional restrictions had affected 3,505 people who were either denied initial admission or denied continued care on recertification through a nursing facility or the home- and community-based waiver.

The regulation has been amended to reflect essentially the same eligibility criteria that existed prior to the April 2003 amendments.

Modernization

The undersecretary for health, the commissioner of the Department for Medicaid Services, and the undersecretary for administrative and fiscal affairs testified about the cabinet's efforts to implement innovative practices in the Medicaid program that have proven successful in other states and the commercial sector. Three basic components of this modernization effort are benefit management, care management, and improvements in technology.

The current pharmacy claims payment system is inefficient and continues to be a problem between pharmacy "switch vendors" and the Medicaid Management Information Service (MMIS). As a result, a pharmacy benefit administrator has been retained.

The undersecretary said that the Department for Medicaid Services contracts with National Health Services to provide Peer Review services, such as prior authorization, pre-admission screening, concurrent review of admitted patients, and utilization review. In 2003, there were more than 29,000 cases with a yearly cost of approximately $25,000 each.

In July 2004, a pilot project in Clay and Fayette Counties was established to allow use of a new permanent plastic health eligibility card to replace the monthly Medicaid eligibility paper card. Eligibility and claims status information would be accessible real-time through the Web, consistent with commercial health insurance. The cabinet plans to expand this project to all Medicaid recipients.

The MMIS, through Unisys, manages and processes recipient claims and houses provider data. The current database prohibits the ability to quickly and easily extract and analyze data for decision support. A Request for Proposal was issued in July 2004 for a new MMIS system to utilize advanced technology.

Kentucky's Medicaid database is an aging mainframe system that calculates Medicaid eligibility and passes data to MMIS. It also supports Temporary Assistance for

Needy Families (TANF), food stamps, and state supplementation. Poor data quality and confusing user interface plague this system, leading to the department's plans to redevelop the system over the next five years.

The program plans to utilize two medical directors to communicate with physicians to find a solution to medical disputes. These medical directors would also serve as supervisors for the nurse case managers.

Medicaid currently services approximately 80,000 persons who are dual eligibles for both the Medicare and Medicaid programs. Effective January 2006, Medicare Part D will shift the responsibilities for pharmacy costs for the dual eligibles to the federal government.

Medicaid currently has an active procurement for an administrative agent to provide utilization review, provider enrollment, provider and member education, call center operations for members and providers, and disease and case management. The contract will be awarded March 1, 2005, and will become operational October 1, 2006. The Request for Proposal emphasizes flexibility and the opportunity for system enhancement. The Kentucky Health Card pilot began July 1, 2004.

The cabinet has seven short-term initiatives: reduce inappropriate use of prescription drugs in the ambulatory patient population; launch targeted physician education program; reduce inappropriate use of prescription drugs in the long-term care population; reinvent the fraud and abuse hotline; strengthen program integrity; strengthen pharmacy administration; and targeted case management for high-cost recipients.

Durable Medical Equipment

The owner of National Seating & Mobility, a company that helps children obtain durable medical equipment, testified that the Department for Medicaid Services had promulgated an emergency administrative regulation that would put him out of business by cutting reimbursement by 20 to 50 percent. The Cabinet for Health and Family Services was directed to meet with the company to discuss the payment issue.

Nursing Facility Provider Tax

The deputy director of the Department for Medicaid Services testified about the nursing facility provider tax, the original of which was enacted in 1993. The purpose of the tax was to generate additional revenues to apply toward increased matching funds from the federal government to support the Medicaid program. While most of these taxes have been repealed, the 2 percent provider tax for nursing services has remained.

The 2004 General Assembly assessed an additional 4 percent provider tax on certain gross receipts of nursing facilities and a 5.5 percent tax on certain gross revenues received by intermediate care facilities for the mentally retarded and developmentally disabled and Supports for Community Living providers. The purpose of the additional taxes was to increase reimbursement to those facilities and to obtain additional funds for the Medicaid program. The state has estimated that approximately $201 million in additional funds, inclusive of the federal match, would be made available for Medicaid each year from this increased provider tax.

Subsequent to implementation of the taxes mandated in 2004, questions have arisen by non-Medicaid-participating facilities about the fairness of paying taxes that will fund Medicaid services. Nursing home representatives testified that the inequity is particularly burdensome for nonprofit and charitable facilities that have little or no revenue. Some facilities may be required to close.

Legislators expressed concern that too little information about this tax was made available during the 2004 General Session. The cabinet was urged to pursue federal waivers to obtain relief for those facilities facing the severest economic hardship from the tax.

The Cabinet for Health and Family Services plans to recommend statutory changes in 2005 to address ambiguities in the enabling legislation.

Pharmacy Benefits Administrator

A representative from First Health Services Corporation testified that her company was awarded the contract as the Medicaid Pharmacy Benefits Administrator and will begin operation on December 4, 2004. The Cabinet for Health and Family Services will maintain complete programmatic and policy control. Kentucky has high drug utilization at nearly twice the national average. The goals of First Health Services Corporation are to improve patient safety by monitoring drug-to-drug interactions, stop duplicative therapies, use automated processes and sophisticated clinical analysis, and profile providers and recipients to stop the potential for fraud and abuse.

Public Health

Autism

The director of the Kentucky Consortium on Autism stated that the condition is more common than childhood cancer, diabetes, and Down syndrome. Data on the prevalence of autism from the Centers for Disease Control and Prevention and the National Institutes of Health indicate that, in 1990, approximately 1,472 Kentuckians were diagnosed with autism, while by 2003 the number had increased to 16,468. One child out of every 250 newborns will be diagnosed with autism. Autism is the fastest growing developmental disability, and the Autism Society of America calculates the annual cost will increase to $300 billion within the next 10 years.

Children's Immunizations

The commissioner of the Department for Public Health, Cabinet for Health and Family Services, stated that fewer primary care providers are providing vaccines in their offices because of the high cost of vaccines and liability issues. Local health departments have been the longstanding provider of childhood immunizations, especially school-mandated immunizations; the departments receive federal funding for child vaccines if the children are eligible for Medicaid or other federal programs. Limited state funds are available for the underinsured or uninsured, and local funding may be used to purchase vaccines for additional populations.

Insurance companies have two hurdles related to reimbursement of local health departments for vaccines: recognition of local health departments as a valid provider with no on-site physician; and practical contracting methods for all local health departments. The Department for Public Health is working with local health departments and insurance companies to streamline health department vaccine programs.

Bioterrorism Initiatives at the University of Louisville

The dean of the School of Public Health and Information Sciences at the University of Louisville testified that the Center for the Deterrence of Biowarfare and Bioterrorism works to develop educational programs for the University of Louisville, the region, and the state that will highlight (1) potential agents used in biowarfare; (2) clinical syndromes associated with these agents; (3) laboratory investigation; (4) coordination with public health and law enforcement agencies; (5) strategies for large-scale immunization and treatment; (6) psychological and social responses; and (7) ethical and legal issues.

The University of Louisville receives a multi-year grant from the Centers for Disease Control and Prevention to develop and implement instructional models into the medical curriculum. Instruction is provided to students, faculty, health care providers in more than 10 states, Louisville community health care providers, and the public. The center has trained at least one health care worker/first responder from every county in Kentucky.

2004 Drug Control Assessment Summit Final Report

The commissioner of the Department of Criminal Justice Training, who served as the facilitator of the Statewide Drug Control Assessment Summit 2004 and the interim executive director of the Office of Drug Control Policy, testified about the efforts of the summit to examine problems associated with substance abuse in Kentucky. In December 2003, the Lieutenant Governor, at the direction of the Governor, named a core group of people to coordinate the summit. The intent was to (1) provide and establish a mechanism to assess Kentucky's substance abuse issues in the broad areas of education, treatment, prevention, and drug law enforcement; (2) identify gaps and replications of services; (3) identify successful programs; (4) strengthen existing programs; (5) address funding issues; (6) and gather input from state, local, and federal programs, legislators, and the general public.

Fifty-one people from all areas of education, prevention, treatment, and law enforcement were appointed by the Lieutenant Governor to serve as summit panel members. Panel members were divided into subcommittees, and beginning in February 2004, the group started a 20-week process of examining the issues, attending statewide public meetings, and conducting 850 interviews. The summit panel met once each month to review results, and in late June agreed upon specific recommendations that were submitted to the Governor.

The summit unanimously agreed and recommended that one of the first steps should be to establish an Office of Drug Control Policy (ODCP) to be responsible for overseeing the effort to become more systemic and balanced. An executive director has been appointed.

The executive director testified that ODCP will develop evaluation and compliance standards for drug court programs, state- and privately operated treatment centers, education programs that receive state and federal funds, law enforcement task forces funded by the state and the Byrne Grant, and Kentucky Agency for Substance Abuse Policy programs funded with tobacco settlement funds. ODCP will have a mapping of effective, affordable, and accessible treatment and education programs; a better understanding of the statewide scope of the drug problem; a package of legislative initiatives that would most effectively combat substance abuse; a list of recommendations on funding efficiencies that could be developed from overlapping programs or through complementing programs that have never before worked together; an aggressive plan for pursuing federal funds and grants through public and private agencies; and a long-term funding plan based on needs that are identified.

Epilepsy

The director of the Kentucky Epilepsy Foundation stated that the foundation is the only nonprofit 501(c)(3) health organization providing essential programs and services to meet the common and unique needs of persons with epilepsy/seizure disorders in Kentucky. Epilepsy is a chronic neurological condition characterized by the recurrence of unprovoked epileptic seizures. In most cases, it is difficult to pinpoint a specific cause, but with a daily regimen of medication most people can live with few limitations. Epilepsy is the third most common neurological disorder after stroke and Alzheimer's disease, with more than twice the number of those affected with tuberculosis, cerebral palsy, muscular dystrophy, cystic fibrosis, Down syndrome, and multiple sclerosis combined. It has been estimated to have an annual cost of $12.5 billion. Epilepsy can happen to anyone at any time.

HIV/AIDS and the AIDS Drug Assistance Program Waiting List

The executive director of Heartland Cares, a community services provider in Paducah, testified that the state faces a crisis with its HIV/AIDS drug funding. On June 23, 2004, the President announced the immediate availability of $20 million in drug therapies for 10 states with waiting lists as of June 21, 2004. There are 1,750 available slots allocated to only 10 states by the number of individuals on their respective waiting lists. As long as funding is available, new clients that join waiting lists in the 10 states will be able to participate in the AIDS Drug Assistance Program (ADAP) initiative. However, there is no guarantee that individuals receiving medication through this program will remain in ADAP when the 2005 fiscal year begins on April 1, 2005, unless Congress allocates funding earmarked for the ADAP Supplemental Treatment Grants.

The legislature has appropriated $90,000 in funding for this program in previous years, but this funding should be much more. Increased funding will allow persons with HIV and AIDS to remain productive and tax-paying citizens. Elimination of the funding or the failure to increase it will require these persons to obtain much more costly state and federal assistance after they become totally disabled.

Obesity Update

A representative of the Action for Healthy Kids Task Force - Kentucky State Team testified about continued work toward improving food choices in schools and vending machines, promoting curriculum-based nutrition education, and increasing physical activity opportunities among its students. The task force is collaborating with the Department of Education to implement a five-month pilot program in four elementary schools that incorporates physical activity in the classroom and integrating age-appropriate nutrition education throughout the general curriculum.

In partnership with the Kentucky School Board Association, the state team is identifying schools and districts that have written a policy addressing food sold or served in schools. To further advance the importance of healthy food choices, the team has displayed healthy snack and beverage vending options at state meetings, provided expertise on negotiating healthier and more lucrative vending contracts, provided technical assistance on milk vending machines, and has advocated for changes in school vending policy. It has been documented that excessive increases in poor nutrition, inactivity, and weight problems adversely affect academic achievement and possibly cost schools millions of dollars each year.

Referred Block Grant Applications

Pursuant to KRS 45.353, the committee held legislative hearings on two block grant applications: federal FY 2005 Social Services, and federal FY 2005 Community Mental Health.

Referred Administrative Regulations

In performing it statutory legislative oversight responsibility, the committee reviewed 22 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 Chapter 12.028, the committee held legislative hearings on two executive orders upon referral from the Legislative Research Commission: 2004-444, relating to the reorganization of the Cabinet for Health Services and the Cabinet for Families and Children; and 2004-726, relating to the reorganization of the Cabinet for Health and Family Services.

SUBCOMMITTEE ACTIVITY

Families and Children Subcommittee

The Families and Children Subcommittee met three times during the 2004 Interim. The following are the major issues that were considered.

Child Protective Services

The federal Child Abuse Prevention and Treatment Act (CAPTA) provides states with flexible funds to improve the child protective service system. The Cabinet for Health and Family Services has the responsibility to submit a five-year plan and assurances that the state is operating a statewide child abuse and neglect program that includes specific provisions and procedures. Two states, Pennsylvania and Indiana, do not apply for CAPTA. New CAPTA requirements include the mandatory reporting of infants born exposed to drugs, mandatory training for guardians ad litem, referrals to early intervention programs for children under age three who have been a victim of child abuse or neglect, and notification of reports to interested parties.

Child Protective Services (CPS) personnel in Jefferson County described their arrangements with hospitals. All hospitals that deliver infants in Jefferson County are encouraged to test infants for drugs or alcohol if one of the following conditions exists: (1) the mother received late or no prenatal care; (2) abruptio placenta; (3) the mother has a history or there is evidence of current drug or alcohol use; (4) the infant's birth weight is less than the 10th percentile; (5) there is an unplanned home delivery; (6) the total labor is less than three hours; or (7) the infant's head circumference is less than the 10th percentile. Between January and August 2004, 23 families with infants having suspected drug exposure were reported in Jefferson County. The status of each CPS report is shared with the county attorney and law enforcement. Referrals for prosecution are tracked on an individual basis as part of the case work provided by the cabinet.

The Cabinet for Health and Family Services officials stated that 50,319 CPS reports were received in Kentucky in fiscal year 2004. Of those reports, 30,853 investigations were conducted. For an additional 15,294 of the reports, Family in Need of Service Assessments (FINSA) were conducted, and 773 non-caretaker investigations with law enforcement were conducted. Less than 5 percent of referrals met criteria for an abuse or neglect investigation, FINSA, or law enforcement investigation. Of the 30,853 investigations of abuse and neglect, 30 percent were substantiated cases of abuse, neglect, or both. Among the substantiated cases, about 20 percent (2,835) had physical abuse, 5 percent (3,881) had sexual abuse, 70 percent (12,272) had neglect, and 3 percent had emotional abuse. More than one type of abuse or neglect may be reported for each substantiated case. There have been a total of seven abandoned infants statewide. Of those, five have been adopted, one infant termination of parental rights has been granted, and one mother came back to claim her child.

Foster Care Census

The federal government requires each state to conduct a foster care census to account for children in state custody. On any day, 6,300 children are committed to state custody in Kentucky. The census was initiated in the summer of 2002 and was completed in 2003. All of those children were seen and met in their homes, and between 75 percent and 85 percent of foster care providers were interviewed. Safety and placement were validated, and it was verified that children were being seen by their social workers as required by policy. The cabinet reported that all children were identified and found. More than 90 percent of foster care providers rated the services to meet the special needs of their foster child as “at least adequate.” More than 70 percent of care providers rated visits by social workers as “just right.” Ninety percent of the children had a physical within 12 months, and 83 percent had a dental exam within 12 months. The cabinet is working on developing detailed lists to send to the service regional administrators of children who had not been visited, children needing physical or dental exams, children listed as not in school, or other child-related concerns. Information data bases are to be updated accordingly.

Child and Family Services Review

As required by the U.S. Department of Health and Human Services, the Cabinet for Health and Family Services reviewed 50 protective service cases from three counties in March 2003. Findings were based on data profiles, statewide assessments, on-site case reviews, and interviews. Areas of nonconformity resulted in a two-year Program Improvement Plan that will end on November 3, 2005. The foundations of the improvement plan include increasing the consistency of social work interventions, strengthening professional development, enhancing continuous quality improvement, expanding and improving community networks, and building partnerships with the courts. A second Child and Family Services Review will occur after the completion of the improvement plan. Substantial conformity will be measured by a 95 percent compliance rate.

Investigation of Caritas Peace Center for Alleged Misuse of Medications With Youth

The Protection and Advocacy Division conducted an investigation on the use of medications that are ordered to be given as needed, not on a set schedule, at Caritas Peace Center in Lexington. There were reports that children had been required to take medicines before becoming agitated in order to control their behavior. Caritas indicated that they fully cooperated with the investigation and provided a written response to the Protection and Advocacy findings and comments. The major issues were reported to have been resolved in June 2003.

Child Care Subsidies

The Division of Child Care, Cabinet for Health and Family Services, indicated that the source funds available in fiscal year 2004 for subsidies under the Child Care Assistance Program (CCAP) were $176.5 million. An average of 43,518 families were served monthly; and the average cost per family was $3,139.70 per year, excluding the co-pays. The CCAP program serves income-eligible children so that their parents can work. In an effort to contain program costs, the eligibility level for subsidies was lowered to 150 percent of poverty from 165 percent of poverty, and no new subsidy applications were accepted after May 2003. Between May and September of 2003, 10,000 children were placed on a waiting list. In December 2003, eligible families on the waiting list were contacted. Families who responded were provided child care assistance benefits. The CCAP has been able to serve all families who meet the eligibility requirements since January 2004. About 5,000 families were affected by dropping to 150 percent of the poverty level and about 7,500 additional families would be affected if Kentucky dropped to 125 percent of the poverty level.

Kentucky Early Intervention System or First Steps

The Cabinet for Health and Family Services and the Chair of the Interagency Coordinating Council provided an update of Kentucky Early Intervention System, also known as the First Steps Program. The First Steps Program was transferred from the Commission for Children with Special Health Care Needs to the Department for Public Health by administrative order in March 2004. At that time, the workgroup began a redesign process based on three guiding principals: (1) children will receive necessary services, (2) families will receive necessary support services, and (3) the program will stay within the budget. In June 2004, the statewide provider training began. In July 2004, emergency regulations were put in place and ordinary regulations began the review process. Immediate and short-term redesigns are in place and the workgroup continues to develop long-term recommendations. The total state and agency funds were $30,422,200 and the total federal funds were $5,381,800. There was a total of 11,511 children served in fiscal year 2004 and there are 5,849 children currently being served.

Childhood Obesity

An update on childhood obesity in Kentucky was provided by the University of Kentucky Prevention Research Center and the Obesity and Chronic Disease Prevention Program, Cabinet for Health and Family Services. The information showed that Kentucky has a higher rate of obesity than the United States as a whole; nearly two-thirds of Kentucky's adults are either overweight or obese. They also found that Kentucky has fewer people who are physically active and who eat five or more servings of fruits and vegetables per day than any other state. The Governor's regional forums on obesity were held throughout the state in 2004 to prioritize strategies for fighting obesity. The forum findings showed that mandatory physical education K-12 was the number one recommendation in all regions and an increase in healthy choices of foods in vending machines was the number two recommendation in most regions. The subcommittee heard testimony on research showing that physical activity can be worked into the daily activities of children in many ways. Research demonstrates that an added bonus to physical activity is its positive correlation with learning.

The Kentucky Department of Education (KDE) does not require physical education in elementary and middle grades. Elementary physical education is not required to be taught by a certified physical educator. High school students complete one-half credit, which is only one semester of physical education. There have been efforts across the state to improve physical education in schools. The Foundation for a Healthy Kentucky has partnered with the KDE to support Coordinated School Health Programs, which integrate physical activity and nutrition programs into school curriculums. The Health Promotion Schools of Excellence in Jefferson County has promoted health education and coordinated school health programs since 1992 and has programs in 48 schools sponsored by several local community businesses and partners.

REPORT OF THE 2004
INTERIM JOINT COMMITTEE ON JUDICIARY

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

Rep. Paul Bather
Sen. Tom Buford
Rep. Perry Clark
Rep. Tim Feeley
Rep. Charles Geveden
Sen. Ray Jones II
Sen. Gerald Neal
Sen. Jerry Rhoads
Sen. Ernesto Scorsone
Rep. Arnold Simpson
Sen. Katie Stine
Rep. Robin L. Webb
Sen. David L. Williams
Rep. Kevin Bratcher
Sen. Lindy Casebier
Rep. Jesse Crenshaw
Rep. Joseph Fischer
Rep. Jeffrey Hoover
Rep. Stan Lee
Rep. Frank Rasche
Sen. Richard Roeding
Sen. Dan Seum
Rep. Kathy Stein
Rep. John Vincent
Rep. Rob Wilkey
Rep. Brent Yonts

LRC Staff: Norman Lawson, Jonathan Grate, Chris White, Joanna Decker, and Lisa Fenner

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY

INTERIM JOINT COMMITTEE ON JUDICIARY

JURISDICTION: Matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills, and administration of 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; and juvenile matters.

COMMITTEE ACTIVITY

During the 2004 Interim, the Interim Joint Committee on Judiciary held two meetings.

The first meeting of the committee was held in the Capitol Annex in Frankfort on September 21. The meeting was chaired by Representative Gross Lindsay.

The first speaker was the executive director of the Virginia Institute of Forensic Science and Medicine, who appeared at the invitation of the committee to explain the program she directs. The institute was founded in 1999 to take persons who already hold postgraduate degrees in chemistry, biology, medicine, and related topics, and provide them with advanced instruction in forensic evidence gathering and laboratory techniques through a parallel laboratory experience with instructors begin practicing forensic scientists at regular forensic laboratories. Other students include police, pathologists, physicians, and attorneys who wish to enhance their knowledge of forensic science and testing procedures. The students are qualified and proficient upon their graduation and can work for a forensic laboratory. The program has a 90 percent retention rate among the graduates it places, and most of the graduates remain in state. Various legislators asked how such a program might be started in Kentucky and whether it could be operated at universities and community colleges.

The next speaker was the director of the Forensic Science Program at Eastern Kentucky University, which operates an undergraduate forensic science program in connection with the biology and chemistry programs of the university. It, unlike the Virginia program, is a degree-granting program, and the number of students in the program is expanding. The director detailed university desires to expand the program.

The next speakers were the deputy secretary of the Justice and Public Safety Cabinet and the commissioner of State Police who spoke of the improvements made at the Kentucky State Police forensic laboratories. The commissioner indicated that the laboratories were conducting 35,000 to 40,000 forensic examinations per year, that the number of solid dose drug examinations older than 60 days had been reduced to zero, that improved liaison with the courts eliminated the need to test many cases in which guilty pleas had already been entered, and that new personnel had been hired and new equipment obtained. In the central laboratory, a retired examiner had been hired to train new examiners, thus freeing other examiners to do regular examinations. Various personnel, both at the central laboratory and other laboratories, were being cross trained to conduct other types of examinations. Various legislators complimented the commissioner on the improvements in the laboratory system. Several legislators indicated that the blood alcohol testing in DUI cases should be eliminated because it is scientifically unreliable.

The next speakers were the deputy secretary of the Justice and Public Safety Cabinet and the interim executive director of the Office of Drug Control Policy, who presented the results of drug summits held throughout the state to assess the status of substance abuse in the Commonwealth and to seek recommendations for drug demand reduction, drug enforcement, drug treatment, and other issues. The deputy secretary indicated that the Governor had recently issued an executive order creating the Office of Drug Control Policy and defining its responsibilities for drug control policy, enforcement, treatment programs, and related matters.

The next speakers were the deputy secretary of the Justice and Public Safety Cabinet and the public advocate. The Governor had recently transferred the Department of Public Advocacy from the Public Protection Cabinet to the Justice and Public Safety Cabinet as an independent agency. The public advocate spoke of his satisfaction with the move and the agreement that the department had entered into with the cabinet with regard to the independent status of the department.

Executive Orders 2004-730 and 2004-994 relating to reorganization of the Justice and Public Safety Cabinet were approved by the committee.

The next speakers represented the Kentucky Sheriff's Association and spoke in favor of bills to increase the fee for prisoner transportation to $10 per hour plus actual expenses, a $15 per hour fee for providing court bailiffs, and the 25 percent fee that the sheriff must return to the fiscal court. From the information provided by the sheriffs, some fiscal courts do not return the full remaining 75 percent of the fee given to the county to the sheriffs, and the sheriffs would like to statutorily mandate return of the full amount.

The second meeting of the committee was held in the Capitol Annex in Frankfort on November 16. The November meeting was chaired by Senator Robert Stivers.

The first speakers were a representative of the District Judges Association and Representative Brent Yonts, who spoke in favor of 05 RS BR 254 to provide for the elimination of jury trials in incompetency cases. The District Judges Association favors the bill because of the stress placed on families who must place their loved one's medical or mental problems before a jury of strangers in circumstances where the matter could be placed directly before a judge without a jury. It would be less stressful; lower the cost because jurors would not have to be paid; and would protect the respondent's rights by an interdisciplinary team, the attorney for the respondent, or a court-appointed guardian ad litem (if the respondent had no attorney). Several members questioned the constitutionality of doing away with jury trials in such cases, citing a federal case holding the need for jury trials in such cases.

Other members questioned a definition of "immediate family" because it did not explain what constituted being a member of the immediate family.

A representative of the Jefferson County Attorney's Office also spoke in favor of the bill citing increased need for incompetency determinations because of federal legislation limiting parental access to health records of adult children.

The next speakers, representing the Department of Public Advocacy and the Ombudsman Agency of the Bluegrass, spoke against the legislation citing the potential for misuse of the no-jury-trial provision.

The next speaker, from the Office of Kentucky Legal Services Program, spoke in support of increasing the homestead exemption in bankruptcy cases from $5,000 to $15,000. A private citizen, citing family health and economic burdens, who is facing the loss of their home, spoke in favor of the legislation. An attorney who is a bankruptcy trustee spoke about the federal bankruptcy legislation that has a $15,000 base homestead exemption, which is indexed to the consumer price index so it increases as does the cost of living. He indicated that 32 states follow the federal model, but that other states have exemptions ranging from $100,000 and up to unlimited homestead exemptions. Several members of the committee concurred that increasing the homestead exemption would be beneficial and would possibly decrease placing persons on the welfare rolls when they get into financial trouble.

The next speakers represented the Kentucky Child Support Guidelines Commission and testified in favor of reintroducing 2004 RS HB 75, which would increase the child support guidelines from salaries of $15,000 per month to $20,000 per month, increase the amount of child support in some cases, and adjust minor errors in the current child support guidelines table. They also spoke in favor of reintroduction of 2004 RS HB 76, which would adjust child support guidelines when there was a situation of shared custody of 30 percent, 40 percent, and 50 percent. With increasing levels of custody, the amount paid in child support would be appropriately reduced. One legislator asked if there would be a continued necessity for child support if there was 50-50 shared custody. The response was that there would still be if there were disparate salaries. Other members cited instances where parents would seek to reduce the amount of shared time in order to increase the amount of child support that they received.

The next speakers were Senator Katie Stine and Representative Charlie Hoffman, co-chairs of the Legislative Program Review and Investigations Committee; and a member of the committee staff. They presented information on the findings and recommendations of the committee regarding adult protection programs in Kentucky. A specific list of problems was presented along with a list of specific recommendations for their solution. The chairman of the committee indicated that not much new legislation was needed, that existing law was adequate for protecting adults from abuse and exploitation, but that more effective use of the existing statutes would improve adult protection. Various legislators asked questions about whether new statutes or enhanced penalties would be required, to which the committee chair replied "no," but that the matter was still under consideration by the Cabinet for Health and Family Services and that final legislative proposals have not been completed.

NOTE: A meeting was scheduled to be held on October 19, but that meeting was canceled due to the General Assembly being in extraordinary session.

REPORT OF THE 2004 INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

Sen. Katie Stine, Co-Chair
Rep. J. R. Gray, Co-Chair

Rep. John Arnold
Sen. David Boswell
Rep. Denver Butler
Sen. Julie Denton
Rep. C. B. Embry
Sen. Brett Guthrie
Rep. Charlie Hoffman
Rep. Dennis Horlander
Rep. Joni Jenkins
Sen. Alice Kerr
Rep. Tom Kerr
Sen. Vernie McGaha
Rep. Russ Mobley
Sen. Daniel Mongiardo
Rep. Rick Nelson
Sen. Joey Pendleton
Sen. Jerry Rhoads
Sen. Dick Roeding
Rep. Jimmy Stewart
Sen. Damon Thayer
Rep. Brent Yonts

LRC Staff: Linda Bussell, Betty Davis, Adanna Hydes, Melvin LeCompte, and Cecilia Perry

PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION AND THE 2005 REGULAR SESSION OF THE KENTUCKY GENERAL ASSEMBLY

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

JURISDICTION: Matters pertaining to the work-force 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; and industrial weights and measures.

COMMITTEE ACTIVITY

The committee held three meetings during the 2004 Interim. At the first meeting, held in June, committee members were introduced to and heard from recent appointees in the Departments of Labor and Workforce Investment. Agency officials presented information on the status of the Unemployment Insurance Trust Fund and the fiscal impact that a decreasing trust fund balance could have on employer taxes and employee benefit levels. Members also were told that Kentucky Electronic Workplace for Employment Services—the computerized unemployment insurance claim filing, employer tax, and record keeping system—is fully operating and functioning properly. Finally, the commissioner of the Department of Labor described areas in which he planned to focus attention during his tenure, such as improving workplace safety; improving and increasing company volunteer partnership programs; strengthening Kentucky's apprenticeship program; and developing an outreach program for Hispanic and other non-English speaking workers to ensure that these workers understand workplace safety issues, are aware of their rights, and are knowledgeable about available educational opportunities.

The second meeting was held in August at the United Parcel Service (UPS) Training Center in Louisville. Members heard a presentation on the Metropolitan College, a work-study program coordinated by UPS, the state of Kentucky, the University of Louisville, and the Jefferson Community and Technical College that offers Kentucky citizens a chance to work part-time for UPS while completing a college education; and the School to Work Program, a high school work-study program for graduating seniors. College faculty and UPS administrators presented information on the goals, activities, and financial incentives of the Metropolitan College and School to Work Program along with student population statistics. Graduates and students in the Metropolitan College program spoke to the committee about their experiences as student/employees and were featured as guides during the committee's tour of the UPS Worldport facility.

The committee's third meeting was held in September as part of Kentucky's Annual Labor-Management Conference, held at Kentucky Dam Village in Gilbertsville. Topics discussed were workers' compensation provisions relating to workplace safety violations; the 2004 National Council on Compensation Insurance (NCCI) loss cost filing; and the Office of Insurance's activities related to the rehabilitation of Associated Industries of Kentucky (AIK) Comp, the state's largest workers' compensation self-insurance program.

The executive director of the Office of Workers' Claims summarized state and federal provisions that relate to violations of workplace safety standards. He explained that the Federal Occupational Safety and Health Act requires an employer to provide a safe workplace, and that the Kentucky workers' compensation law provides increased workers' compensation benefits to an employee whose injury resulted from a violation of a safety standard.

Next, the director of the Office of Insurance provided an update on NCCI's loss cost filing for 2004, stating that NCCI recommended a 6.3 percent workers' compensation rate increase for noncoal and a 9.1 percent rate increase for coal classifications, attributing most of the increase to rising medical costs in the workers' compensation market. Finally the director provided a summary of the activities undertaken to comply with Executive Order 2004-835 that transferred the oversight responsibility for workers' compensation group self-insurance from the Office of Workers' Claims to the Office of Insurance; and to rehabilitate AIK Comp, which had a reported deficit of more than $58 million at the end of 2003. The director stated that the objective of the Office of Insurance is to preserve AIK Comp to ensure its future ability to pay workers' compensation benefits to injured workers.

REPORT OF THE 2004
INTERIM JOINT COMMITTEE ON
LICENSING AND OCCUPATIONS

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

Sen. Charlie Borders	Rep. Tom Burch
Sen. David Boswell	Rep. Larry Clark
Sen. Tom Buford	Rep. Ron Crimm
Sen. Brett Guthrie	Rep. Jon Draud
Sen. Daniel Mongiardo	Rep. James Gooch
Sen. Dick Roeding	Rep. Dennis Horlander
Sen. Larry Saunders	Rep. Joni Jenkins
Sen. Tim Shaughnessy	Rep. Paul Marcotte
Sen. Robert Stivers	Rep. Reginald Meeks
Sen. Jack Westwood	Rep. Charles Miller
	Rep. Ruth Ann Palumbo
	Rep. Jon David Reinhardt

LRC Staff: Vida Murray, Ann Seppenfield, Bryce Amburgey, and Susan Cunningham

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 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; and trade practices.

COMMITTEE ACTIVITY

During the 2004 Interim, the Interim Joint Committee on Licensing and Occupations met three times.

At its first meeting, the executive director of the Division of Occupations and Professions identified the division's concerns and proposed legislative changes. Issues of concern addressed were the need for additional staff if a new board is established and the viability of boards with small memberships. The executive director said that the total administrative cost for establishing a new board is approximately $47,450, of which $43,300 can be absorbed by three separate boards. The director stated that the General Assembly may assist smaller boards having financial difficulties by enacting laws to boost the boards' memberships, license rather than certify the boards' members, merge smaller boards with similar boards, and initiate a review process by which boards are sunset if no longer needed.

Committee members were apprised of legislation in which the division is interested. The legislation proposed would require all mental health professionals to undergo a criminal background check; require dieticians and nutritionists with inactive credentials to obtain continuing education; and permit persons to retake the social workers' examinations in a shorter period of time than is now permitted.

The next item on the agenda was a presentation from the executive director of the Office of Housing, Buildings, and Construction on the licensing programs for electricians and electrical contractors and home inspectors. The executive director reported that before he took office, the method for processing applications was haphazard. Checks were deposited without processing applications, and accounting procedures were lax. To abate the licensing problems, the executive director reported that the office has crossed-trained its staff and hired temporary employees. As of the meeting date, approximately 17,000 licenses had been mailed, 1,100 were ready to be mailed, and approximately 7,500 applications were on hold because they contained incomplete information. Other improvements instituted included establishing a renewal process with an online re-certification process and relocating the office's varied licensing programs to a centralized location. In response to members' questions, the executive director assured committee members that the office would be flexible in processing applications not meeting the July 30, 2004, deadline for grandfathering if the processing of the applications was delayed because of administrative inaction or mistakes.

The office representative proposed that the following statutory changes be made: stagger license renewal dates to coincide with the licensee's birthday so all licenses are not renewed on the same date, require continuing education as a condition of licensing renewal, and establish a licensing program for building contractors. Under the proposed contractors' licensing program, contractors would be required to have liability and workers' compensation insurance, use a uniform contact, participate in a complaint mediation process, and attend mandatory continuing education classes.

The final item on the agenda for the first meeting was an overview by the director of the Division of Water on the process developers and builders undergo to obtain permits for water and sewer installations. Under the process outlined, the builder or developer submits an application along with drawings, specifications, and an engineer's certification to the Division of Water for its review. During the review, the division checks for the availability of drinking water, water quality, stream crossings, special use waters to evaluate disinfecting procedures, consistency with standards, and the disposal of wastewater. As part of the process, the applicant must obtain certification from the local authority on whether or not it can accept the waste. If the application submitted to the division is complete, the division may process the application within 45 calendar days. The director of the division reported a backlog of processed applications that is attributed to staff turnovers, retirements, transition to a new data management and permitting system, untimely filling of vacant positions, and the recent increase in the volume of project applications. The director reported that the division has minimized the delays by filling critical engineering positions, reallocating engineering resources from other state services, and contracting services out to the larger local government sewer districts' offices.

The director reported that applications are denied if there is insufficient capacity and if design standards are not met. Common deficiencies noted in the submitted applications are incomplete or unsigned applications, drawings that are not signed or sealed by a professional engineer, insufficient cover over water or sewer lines, and inadequate separation between sewer and water lines.

At the committee's second meeting, representatives of Churchill Downs, Inc., spoke on the economic impact the corporation and the racing industry have on the state. Additionally, the representatives testified on the financial condition of the corporation and the impact the expansion of riverboat gambling in neighboring states has had on the racing industry. Churchill Downs and Ellis Park have 900 and 400 employees, respectively, with a high of 10,000 employees at Churchill Downs during Derby Week. One representative reported that the onset of riverboat gaming in neighboring states has not only affected the revenues garnered from racing but has trickled down to affect related occupations, such as trainers and veterinarians. Ellis Park has been negatively impacted by the establishment of an off-track betting facility in Evansville and its inability to provide purses that are competitive with those being awarded at tracks in West Virginia and Iowa. The representatives added that Kentucky is in danger of losing its preeminence because West Virginia, Louisiana, Delaware, and Iowa have incorporated gaming at their tracks and that legislatures in Michigan, Ohio, Nebraska, and Oklahoma are seriously considering proposals to add gaming at the states' tracks.

In response to members' questions, the representatives noted that none of the tracks Churchill Downs, Inc., owns has expanded gaming and that Churchill Downs is the corporation's preeminent track, followed by Calder Race Course in Florida.

The next item on the agenda was testimony from the secretary of the Environmental and Public Protection Cabinet on issues affecting the Kentucky Horse Racing Authority. The secretary began her testimony by emphasizing the Governor's commitment to ensuring that Kentucky remains the horse capital of the world. In setting out the importance of the racing industry to the state's economy, the secretary reported that horse racing and other related businesses provide more than 30,000 jobs and add billions of dollars into the state's economy each year. The secretary reported that the first challenge facing the new racing authority was to evaluate some of the policies and practices of its predecessor, the Kentucky Racing Commission. The secretary reported that an audit of the former commission by the State Auditor was performed, at the Governor's request. The audit found instances where travel vouchers were improperly filled out, state travel regulations were not followed, leave and overtime procedures were inconsistently followed, and state procurement policies were bypassed. The racing authority has implemented new travel and time and attendance policies and procedures, which have subsequently been approved by the State Auditor.

The chairman of the Kentucky Horse Racing Authority told the committee that the racing industry must establish more competitive purses and that two task forces have been established to address the racing industry's needs. One task force is charged with reviewing regulations and holding public hearings concerning issues such as advertisements on jockey silks, improvements to jockey's helmets, jockey weight requirements, stewards' qualifications, and the medication policy. The second task force is charged with promoting the horse racing industry as a tourist attraction and economic development tool and developing a stronger relationship with the news media.

Members' questions addressed why the testing of horses was done out of state, why Kentucky's policy for administering medication was one of the nation's most liberal, and whether a comprehensive audit of the former Kentucky Racing Commission had been performed.

At the committee's third meeting, the executive director of the Office of Alcohol Beverage Control (ABC) briefed members on recent and proposed legislative changes, the economic effect alcoholic beverage sales have on the state, and changes in the wet/dry status of cities and counties. The executive director reported that the state collects $84 million in taxes from the alcoholic beverage industry. House Bill 466, which was passed in the 2004 General Assembly, allows the ABC board to order licensees to attend training in lieu of, or in addition to, buying out their suspensions and to issue supplemental bar licenses to caterers in areas with limited alcoholic beverages sales. Legislative changes proposed by the executive director include prohibiting the sale of alcoholic beverages on the day a local option election is held; allowing restaurants to sell their alcoholic beverages on another licensee's premises; and requiring out-of-state importers of distilled spirits and wine to pay the same license fee as out-of-state brewers. As of the meeting date, 54 local option elections had been held or were planned since the enactment of the laws in 2000 permitting restaurants, golf courses, and wineries in dry territories to have limited sales. Of those elections, the executive director reported that 36 voted to be wet, 16 voted to be dry, and two elections were pending. The executive director gave an overview of the issues affecting the board. The issues discussed were Sunday sales at retail package stores and the broad statutory authority granted the state's 24 small and farm wineries.

The final item on the agenda was a discussion of the effects of the Kentucky Lottery Corporation's receipts on the Kentucky Educational Excellence Scholarship (KEES) program. The president of the Lottery Corporation began by noting that in 2003, the corporation experienced its largest increase in lottery sales over the previous year. The $52 million increase in sales was attributed to several large Powerball jackpots and the creation of some new instant games. The president reported that lottery revenues are adversely impacted by the establishment of the Tennessee lottery, the proliferation of expanded gaming in Kentucky's neighboring states, and statutory limitations on the Lottery Corporation's ability to advertise who benefits from its proceeds. The Lottery Corporation anticipates that Tennessee's addition of the online lottery in January 2004 and its adoption of the multi-state Powerball in April 2004 will account for an anticipated loss of $67 million in sales. The president noted that the Kentucky Lottery hopes to offset some of its loss by adding new games and scratch-off tickets.

Last year, the Lottery distributed $193.5 million to the Commonwealth. In 2004, 2005, and 2006, respectively, 80, 90, and 100 percent of the Lottery's proceeds, excluding $3 million earmarked for literacy programs, was or will be disbursed to the KEES and need-based scholarship programs. The executive director of the Kentucky Higher Education Assistance Authority reported that, notably, KEES awards have not changed since the program's inception, even though the dollars awarded to KEES and college tuition costs have increased. The executive director reported that recent data indicate that the KEES program's objectives of promoting college access, rewarding students who achieve academically, and encouraging high-achieving students to attend college in state are currently being met.

REPORT OF THE 2004 INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Sen. Alice Forgy Kerr, Co-Chair
Rep. Steve Riggs, Co-Chair

Sen. Walter Blevins	Sen. Charlie Borders
Sen. Tom Buford	Sen. Julie Denton
Sen. Ernest Harris	Sen. David Karem
Sen. Albert Robinson	Sen. Gary Tapp
Sen. Elizabeth Tori	Sen. Johnny Ray Turner
Sen. Ed Worley	Rep. John Adams
Rep. Adrian Arnold	Rep. Scott Brinkman
Rep. Jim Callahan	Rep. James Comer
Rep. Ron Crimm	Rep. Mike Denham
Rep. Ted Edmonds	Rep. Derrick Graham
Rep. Jimmy Higdon	Rep. Charlie Hoffman
Rep. Stan Lee	Rep. Reginald Meeks
Rep. Marie Rader	Rep. Arnold Simpson
Rep. Roger Thomas	Rep. Ken Upchurch
Rep. Jim Wayne	

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

PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION AND THE 2005 REGULAR SESSION OF THE 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; and special districts not assigned to another committee.

COMMITTEE ACTIVITY

The Interim Joint Committee on Local Government met five times during the 2004 Interim. It held meetings in Owensboro/Daviess County, Metro Louisville, and Frankfort. At the meetings, the committee discussed the need to further research the rights of tenants in mobile or manufactured home parks. The committee also heard testimony relating to the funding of county jails, local election operations and costs, the status of the merged government in Louisville/Jefferson County, and the executive reorganization of the Department for Local Government as the new Governor's Office for Local Development. The committee also met with various local government interest groups to determine their concerns and legislative needs for the 2005 legislative session.

The first meeting of the 2004 Interim for the committee was held in Frankfort. At this meeting, the members heard testimony from representatives of the Kentucky Legal Services Programs and a group of tenants from various mobile home parks about bad business practices and an abuse of power by managers and owners in these mobile home parks and communities. Guest speakers told members how they and others suffer abuse and harassment from park owners and operators for speaking out about poor conditions and bad management practices. It was brought out in the discussion that a large number of those residing in these areas are elderly persons or single parents on fixed incomes who are afraid of speaking out or taking action against the abuse for fear of losing the only homes they can afford. Members were also told how some of these owner/operators are unfairly "marking up" utility costs from the utility companies and passing them on to the tenants. They also heard stories regarding the use of eviction notices that force some home owners into having to sell their homes at rock bottom prices because they are unable to move their homes to another location due to the short notice given by the owner/operator for eviction. A representative of the American Association for Retired Persons told members that the association had recently become aware of this potentially widespread problem and had begun investigating it. A representative of the Kentucky Coalition of the Homeless also addressed the committee reiterating many of the concerns and issues that had been raised by the other speakers. They said their concern was that so many of those who are experiencing these problems and abuse are the elderly and working poor. They said that if these people are forced out of their homes, then their only hope for housing would be the homeless shelters. Given the already overcrowded and underfunded conditions in most shelters across the state, it is not clear if there would be sufficient resources to meet the needs of this newly homeless population. As a result of the testimony, the committee directed staff to follow up with the Public Service Commission regarding the utility mark-up situation and asked representatives of the Manufactured Housing Association to appear before the committee at a later date.

The second meeting of the committee was held in Owensboro in conjunction with the annual summer meetings of the Kentucky County Judge/Executives Association (KCJEA) and the Kentucky Magistrates and Commissioners Associations (KMCA). Members were told that the three most costly responsibilities for counties which were the results of underfunded state mandates were the incarceration of prisoners, election expenses, and advertising costs. Representatives of the KCJEA said it was now not uncommon for at least one-third to one-half of a county's budget to be dedicated to the operation and funding of jails and the incarceration of prisoners. Members were told that health care costs for prisoners were stretching county budgets to the limit. Issues such as medical cards becoming invalid upon incarceration, the cost for expensive medical and psychological testing that is not a result of incarceration, and better medical management practices were also discussed.

In the area of election and advertising costs, the KMCA representatives told the committee that current advertising statutes were written when newspapers were the only widespread communications network available. They said technology now offers new and more cost effective means for advertising that should be explored and permitted for use by local governments. Regarding election costs, it was pointed out that of the $5.5 million in election costs, the state pays only $1.8 million, leaving counties to pick up the rest. It was also brought to the members' attention that there seems to be an increasing number of special elections being held as a result of referenda; and these costs, which can be significant, are having to be totally borne by the local governments. A request for the state to increase the amount it pays per precinct was also made.

A member of the committee also brought up the idea of using impact fees to assist counties in the funding of jails. It was pointed out that this would require a constitutional amendment.

At its third meeting, the committee met in Louisville/Jefferson County in conjunction with a series of other legislative committee meetings being held in the area. At this time, the mayor of the recently created consolidated local government gave the members an update on the activities and status of the newly merged government. The mayor told the members that the community was already reaping rewards from the merger. The city and county police departments had been merged within two weeks of the new government going online, and a new regional communications center is now being developed to bring together dispatching activities for all emergency services personnel. He said the new government has also been successful in employing some highly experienced, high-profile persons in management positions solely as a result of their desire to be a part of something new and exciting. It was also noted that the state's Bucks for Brains program and the state's new tourism tax credit have created huge opportunities for development in the metro area and have helped to create the new medical research center in the community that was providing a huge number of high-paying jobs. Also at this meeting, members toured the new Frasier Arms Museum and viewed other downtown development projects. They then met with representatives of the Louisville Regional Airport Authority and United Parcel Service who gave an informational presentation on the growth and operations of the regional airport and its importance to the economy of the region and the state.

At the fourth meeting in September, representatives of the Kentucky County Clerk's Association (KCCA) came before the committee to express their concerns and needs for the upcoming legislative session. Members were told that there were some slight problems or adjustments that need to be made to current election laws that the legislature may want to address in 2005. KCCA representatives cited a need to increase the distance that voters should be given from campaign workers on election day to increase "the election free" zone for voters. They said this distance would meet judicial review "tests" and would allow voters privacy and freedom from intimidation on election day. The KCCA representatives also cited a need to clarify current statutes regarding local option elections. They said the statutes were vague as to who has responsibility for the administration and the timing of these elections. Other issues of concern to the county clerk's were the need to have election officers appointed to serve for an entire year rather than one election at a time; the need to have a deadline for candidacy declarations for write-in candidates similar to deadlines for other candidates; the need for members of county election boards to resign once they have filed for public office; the need to prohibit the use of telecommunications devices within the polling place; the need to increase from $60 to $100 per day for election officers; and the need to increase from $300 to $700 the amount that the county is reimbursed from the state for election costs.

Also, at this meeting, members of the committee raised concerns with the clerks regarding the location of polling places in schools and the security risks it creates for children at the schools. They discussed the possibility of changing the times that the polls open and close to better accommodate working families. They next discussed the need to prohibit the release of voting results until all polls are closed in the state. They noted that the two time zones in the state give the western portion of the state an additional hour before polls close there. Members were concerned that reports of voting returns in the eastern time zone areas might prevent people from going to vote if they feel their candidates are not doing well in the early results. The last issues surrounding the county clerks that were discussed were the need to increase and make uniform the fees that are charged for special license plates and the need to ensure that the correct price for vehicle transfers is being given on filing forms. Members were told that people are misreporting what they are paying for vehicles to avoid paying the usage tax.

The committee was then given an overview of the services, activities, and structure of the Department for Local Government, which had been recently reorganized by executive order into the Governor's Office for Local Development (GOLD). During the presentation, the commissioner and office representatives laid out the rationale for the reorganization and provided members with a detailed graph of the structure and operations of the restructured agency. They also discussed the creation of seven new regional offices across the state, the administrative transfer of the Renaissance Kentucky from the Kentucky Housing Corporation to GOLD, the administrative transfer of the East and West Kentucky Corporations and the Single County Coal Fund to GOLD, and the creation of an office of legislative services within the agency.

For its fifth and final meeting in November, representatives of the Kentucky League of Cities (KLC) came before the committee to discuss their legislative needs for the 2005 General Assembly. KLC's legislative issues include the need for all local governments to have the flexibility they need to generate the revenues necessary to operate in the face of increasing operational costs, law enforcement costs, and insurance costs for their employees; the importance of fairness for local governments as the state develops programs for the provision of health care insurance and retirements benefits for active and retired governmental workers; and the importance of making sure that local governments are included in any efforts to expand gaming in the state or should the state undertake tax modernization.

In the area of health insurance, KLC officials told the members that it is important to remember that many local governments are under the state's health insurance program and must pay the same rate as state government pays as an employer. They told the committee that this is becoming more difficult for local governments as premiums keep going up while benefits are going down. They also reminded the members that the salaries of local employees and the budgets of local governments are not as large as state government and must be held to reasonable and affordable levels. In addition to discussing the cost factors relating to health insurance, KLC officials also discussed the need to include better claims management, lower prescription costs, and wellness programs for members in the state's health insurance program.

KLC officials also told the committee that they would, in the future, be bringing a legislative proposal before the General Assembly that will call for a constitutional amendment to shift the authority to utilize different revenue options from inherent and limited constitutional authority to the legislature. They said this would benefit local governments in that it would allow the General Assembly to determine the revenue generation needs of local governments as economic needs dictate in a more timely manner.

Lastly, KLC officials told the committee that they support the continuance and expansion of the Historic Property Tax Pilot Program that began after the 2004 Regular Session. They said they would like to see the program expanded to include a pilot project in the Kenton and Campbell County area. They acknowledged that cities could implement such a program on their own for their own taxing jurisdiction. However, they emphasized that in order for such a program to be effective, it needs to include other taxing jurisdictions for property owners to have a real incentive to participate.

REPORT OF THE 2004 INTERIM JOINT COMMITTEE ON SENIORS, VETERANS, MILITARY AFFAIRS, AND PUBLIC PROTECTION

Sen. Dan Seum, Co-Chair
Rep. Mike Weaver, Co-Chair

Sen. Walter Blevins
Sen. Tom Buford
Sen. Bob Jackson
Sen. Virgil Moore
Sen. Joey Pendleton
Sen. Dorsey Ridley
Sen. Albert Robinson
Sen. Richard Roeding
Sen. Katie Stine
Sen. Elizabeth Tori
Sen. Jack Westwood
Sen. Ed Worley

Rep. Sheldon Baugh
Rep. Carolyn Belcher
Rep. Tom Burch
Rep. Bill Farmer
Rep. Danny Ford
Rep. Mary Harper
Rep. Jodie Haydon
Rep. Fred Nesler
Rep. Tanya Pullin
Rep. Steve Riggs
Rep. Tom Riner
Rep. Charles Siler
Rep. Dottie Sims
Rep. Jim Thompson

LRC Staff: Scott Varland, Clint Newman, Amy Hauser, and Wanda Riley

PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION AND THE 2005 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 and refuse disposal.

COMMITTEE ACTIVITY

Through November of the 2004 Interim, the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection has met four times. The interim joint committee intends to meet for a fifth time in December.

The June 2004 committee meeting began with the adoption of four resolutions honoring Kentucky soldiers killed in Operation Iraqi Freedom.

The executive director of the newly formed Kentucky Office of Homeland Security described the office's duties. The office will centralize Kentucky's homeland security responsibilities that have been divided among the Department of Military Affairs, the abolished Office for Security Coordination, and the Division of Emergency Management. The office will have three major tasks: (1) coordinate a comprehensive statewide security strategy; (2) coordinate the executive branch's efforts to secure and protect executive branch personnel, assets, and facilities; and (3) administer all federal homeland security grants. For fiscal year 2004, the federal government has awarded $35 million in grants. In the past, federal grant money was distributed to localities based on a formula. The 2004 money will be distributed through a competitive process.

The committee next discussed a Trust for America's Health report titled *Ready or Not? Protecting the Public's Health in the Age of Terrorism*. This report was critical of Kentucky's capacity to respond to bioterrorism. Kentucky tied with four other states for lowest score, meeting just 2 of the 10 indicators of bioterrorism preparedness. The commissioner of the Kentucky Department of Public Health said that the report is a snapshot in time of bioterrorism preparedness. Since the report's publication, Kentucky has improved bioterrorism preparedness. The report stated that Kentucky did not disburse 50 percent of Centers for Disease Control and Prevention grant funds to local agencies. The report failed to note that most of the local resources were procured at the state level making disbursement unnecessary. The report found that Kentucky lacked the personnel to distribute the Strategic National Stockpile during a widespread medical emergency. Kentucky does meet the federal "AMBER+" ranking, which is one-half step down from the highest possible "Green" ranking. Kentucky has sufficient Biosafety Level-3 laboratory capacity with three labs located throughout the state. Kentucky has a pandemic flu plan in place. The greatest obstacle to Kentucky success with bioterrorism has been the disbursement of grant money. The Department of Public Health has seen a General Fund reduction that has necessitated the use of grant moneys to cover budget shortfalls.

The vice president of membership services with the Kentucky Hospital Association (KHA) spoke on the administration of a grant awarded by the federal Health and Human Resources Administration. Under that grant, the KHA has developed a hospital surge capacity in each of the 14 emergency management regions. In addition, the KHA has coordinated preparedness efforts among agencies that would be involved in a bioterrorism response.

In July, the committee met in the New Transportation Cabinet Building in Frankfort and adopted a resolution honoring a soldier who had recently died during Operation Iraqi Freedom.

The committee also accepted Executive Order 2004-530 that creates the Kentucky Office of Homeland Security and places the administration of all Kentucky homeland security responsibilities with the office. This temporary reorganization order closely follows Co-Chair Seum's Senate Bill 74 from the previous session that did not gain passage.

The commissioner of the Kentucky Department of Veterans' Affairs (KDVA) spoke on veterans' issues. He said that Kentucky will benefit from the just-released federal plan, known as CARES, to reorganize and enhance veterans' health care. First, Kentucky will receive 10 of the 156 veterans' clinics that will be built around the country in the next few years, significantly improving Kentucky veterans' outpatient care. Second, Lexington will keep both of its federal Department of Veterans' Affairs (VA) facilities: the Cooper Drive hospital and the Leestown campus. Third, the federal VA will complete a study by the end of 2004 on the Louisville federal VA hospital, located on Zorn Avenue. The study will determine whether to move the hospital to downtown Louisville; tear down the Zorn Avenue hospital and build another one on the same site; or renovate the hospital.

With regard to KDVA activities, the commissioner said that under the Governor's Spending Plan the KDVA's budget is reduced 2.5 percent to $35 million. While the three KDVA nursing homes are doing a good job, one more nursing home is needed, perhaps in northern Kentucky. The KDVA has opened the first of five veterans' cemeteries.

The assistant director, Division of Driver Licensing, addressed biometrics. Biometrics measures, by means of an automated system, a person's physical features for the purpose of establishing identity. A biometric faceprint can be as precise as a biometric fingerprint. Kentucky obtained a federal grant of $340,000 for a pilot program for facial recognition driver's license photos. All of the photos were entered in a database and could be compared for various reasons such as determining whether one person was obtaining two or more licenses. The program proved useful in preventing fraud and other crimes as well as catching criminals. However, the funding has ended.

The commander of Criminal Identification and Records, Kentucky State Police, said that the Kentucky General Assembly has provided millions of dollars in funding for biometric fingerprinting by the Kentucky State Police. With biometric fingerprinting, a latent fingerprint can be compared with all fingerprints in all databases for the purpose of identification.

The meeting concluded with a tour of the Transportation Cabinet's new Operations Center that keeps track of transportation throughout Kentucky.

The September meeting was the committee's third. The executive director of the Kentucky Commission on Military Affairs addressed the current federal military Base Realignment and Closure that is entering its critical stages and will conclude in 2005 (BRAC 2005). BRAC 2005 will determine the future of such key Kentucky military bases as Fort Campbell and Fort Knox. He thanked the committee for its contribution to Kentucky's BRAC 2005 efforts and proceeded to describe the remainder of the BRAC 2005 timeline. In December 2004, the U.S. Army will recommend to the secretary of Defense the realignment or closure of certain bases. The secretary will alter this recommendation as he sees fit and submit his own list to the Base Realignment and Closure Commission by May 2005. The commission will submit its proposal to the President in September 2005, and he will have 45 days to make the final decision. Kentucky representatives will defend the interests of our military bases at each stage in the process.

The director of the Kentucky Division of Emergency Management testified on severe weather preparedness. He said that every year the Division of Emergency Management conducts a March tornado drill and an October earthquake drill. During the last tornado drill, the Division of Emergency Management discovered that in 24 counties the local director of Emergency Management lacked a weather radio. The division director pointed out that the statutes do not mandate that a county director of Emergency Management have a weather radio.

The chair of the Education and Scholarship Committee with the American Legion of Kentucky spoke last. He urged legislators to tell their constituents about Boys State and Girls State. These programs last six days and are available to high school juniors who are interested in learning more about government. Graduates have the opportunity to compete for college scholarships. Co-Chair Weaver said that legislators can help publicize Boys State and Girls State. In addition, high school counselors have an opportunity to inform students about the programs.

The entire November meeting was devoted to the statutorily mandated annual homeland security written report titled *Readiness of the Commonwealth to Respond to Acts of War or Terrorism*.

A deputy director with the Kentucky Office of Homeland Security gave an overview of the written report. He provided the office structure. In addition to the executive director, there are three deputy directors. One is assigned to each of the following three areas: prevention and infrastructure, information and intelligence, and health and bioterrorism. A grant manager runs the grant section and is assisted by four internal policy analysts. The grant section administers, tracks, audits, and applies for homeland security grants. This section also assists public agencies with their homeland security grant applications.

The office and first responders across the Commonwealth are very interested in achieving wireless interoperability. To that end, the State Police and various local first responders have applied for and received federal grants for wireless interoperability. Furthermore, the office requires that before a local government receives a communications grant, the local government must gain approval for its plan from the Kentucky Wireless Interoperability Executive Committee.

The deputy director said that the office has been charged with administering federal homeland security grants. In May of 2004, the office instituted a competitive process. The office tackled a major problem during the process: Almost $33 million in federal homeland security grants awarded in previous years was still unspent. The office took the position that a public agency could not apply for new grants unless unspent money was budgeted for spending. As a result of this approach, all of the unspent money has been budgeted.

The deputy director made three legislative proposals. First, he urged passage of legislation similar to 04 HB 188 that if enacted into law would have exempted certain homeland security records from the Open Records Law. Second, he asked for funding to upgrade the Kentucky Emergency Warning System. Third, he asked that the legislature enact into law temporary Executive Order 2004-530 that established the Kentucky Office of Homeland Security.

A branch manager for professional development with the Department of Criminal Justice Training testified on the Kentucky Community Preparedness Program. This was run as a pilot program in 2003 but will be expanded in 2004 by means of a federal homeland security grant in the amount of $2.5 million. The program conducts vulnerability assessments for medium and small communities with the aim of educating local officials about how to prevent and respond to terrorist acts, natural disasters, and crime.

An administrative coordinator, commissioner’s office, Transportation Cabinet, testified that the cabinet had received a $340,000 grant from the Federal Motor Carrier Safety Administration to restart facial recognition driver’s license photos. This program, discussed at the July meeting, had been discontinued when a previous grant expired. With the new grant, the program will restart in January 2005 and run for at least two years and possibly four.

The committee's final meeting will be held in December. It is anticipated that the commissioner of the Commonwealth Office of Technology, executive director of the Kentucky Office of Homeland Security, and the executive director of the Center for Rural Development will testify about first responder progress with regard to wireless interoperability throughout the Commonwealth. Approximately 65 percent ($22 million) of federal homeland security grants sent to Kentucky in 2004 was awarded for wireless interoperability. Multimillion dollar projects were funded throughout the Commonwealth. It is further anticipated that the director of the Division of Financial Audits in the Auditor of Public Accounts office and the adjutant general will discuss an audit of the Department of Military Affairs. The audit examined the department's monitoring of the expenditure of federal money that had passed through the department to other agencies. The adjutant general will go on to discuss other Department of Military Affairs issues.

REPORT OF THE 2004 INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Sen. Alice Kerr, Acting Co-Chair
Rep. Charles Geveden, Co-Chair

Rep. John Adams
Rep. Adrian Arnold
Rep. Eddie Ballard
Rep. Joe Barrows
Rep. Carolyn Belcher
Sen. Walter Blevins
Sen. Charlie Borders
Rep. Kevin Bratcher
Rep. Jim Bruce
Rep. Buddy Buckingham
Sen. Tom Buford
Rep. Dwight Butler
Rep. Jim Callahan
Rep. Larry Clark
Rep. Perry Clark
Rep. Tim Couch
Sen. Julie Denton
Rep. Tim Feeley
Rep. Joe Fischer
Rep. Derrick Graham
Rep. J. R. Gray
Rep. Mike Harmon
Sen. Ernie Harris
Rep. Charlie Hoffman
Sen. David Karem
Rep. Jimmie Lee
Rep. Gross Lindsay
Rep. Paul Marcotte
Rep. Mary Lou Marzian
Rep. Lonnie Napier
Rep. Steve Nunn
Rep. Tanya Pullin
Rep. Jon David Reinhardt
Rep. Tom Riner
Sen. Albert Robinson
Rep. John Will Stacy
Sen. Gary Tapp
Rep. Tommy Thompson
Sen. Elizabeth Tori
Sen. Johnny Ray Turner
Rep. Jim Wayne
Sen. Ed Worley

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

PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION AND THE 2005 REGULAR SESSION OF THE KENTUCKY GENERAL ASSEMBLY

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

TASK FORCE ON ELECTIONS, CONSTITUTIONAL AMENDMENTS, & INTERGOVERNMENTAL AFFAIRS

Sen. Alice Kerr, Co-Chair
Rep. Adrian Arnold, Co-Chair

Rep. Joe Barrows
Rep. Kevin Bratcher
Rep. Jim Bruce
Sen. Tom Buford
Rep. Perry Clark
Rep. Joe Fischer
Rep. J.R. Gray
Rep. Mike Harmon
Sen. Ernie Harris
Rep. Charlie Hoffman
Sen. David Karem
Rep. Gross Lindsay
Rep. Mary Lou Marzian
Rep. Jon David Reinhardt
Sen. Elizabeth Tori

Rep. Charles Geveden, 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; and absentee ballots.

COMMITTEE ACTIVITY

The Interim Joint Committee on State Government held four meetings during the 2004 Interim. The committee focused on the 2005 public employee health insurance program, executive reorganization orders, participation of women and minority businesses in state contracts, goals and operations of the Commonwealth Office of Technology, the state Auditor's audit of the Commonwealth's procurement card program, and administrative regulations relating to employees' travel reimbursement and alternative project delivery methods for capital construction.

In June, the Deputy State Budget Director briefed the committee on the issue of subsidies for "unescorted" retirees (retirees of an employer group who are members of the state health insurance group without the corresponding younger, healthier active employees of that group) and classified employees (support personnel) of school boards. The deputy director noted that the impact of unescorted retirees on premium cost for the state health insurance group has been of particular concern and that 2003 HB 11, which did not pass, was a good faith effort to address the problem but would not have been of benefit to the Commonwealth.

The committee reviewed reorganization Executive Order 2004-481, which established the Governor's Office of Minority Empowerment; and Executive Order 2004-561, which required the Commission on Human Rights (CHR) to report directly to the new Office of Minority Empowerment. In a lengthy discussion of this restructuring, committee members raised many questions about the effect of these reorganizations on the independence, effectiveness, and status of the CHR.

The last agenda item was a discussion with officials from the Personnel Cabinet and their actuary concerning the contents of the Request for Proposal for the 2005 public employee health insurance program. In response to committee members' many concerns about the potential financial impact on state employees, the secretary of the Personnel Cabinet said that, based on estimates from the models that were used, the increased health insurance cost would have a neutral impact on employee salaries.

The committee's August meeting was held at the Kentucky International Convention Center in Louisville. The primary agenda topic was a discussion of the reported low participation of women and minority-owned businesses in state contracts. The president and CEO of the Kentuckiana Minority Business Council (KMBC) provided information to set the stage, noting that, in 1997, there were 12,664 minority-owned firms in the state, accounting for about 4.5 percent of firms in Kentucky's economy and a little more than 1 percent of sales and receipts. He said that state spending with minorities is less than 1 percent, an unacceptable percentage to the minority community. He stated that there are enough minority business enterprises across the state to do business with the state, but the question is whether they will be given the opportunity to compete on that level.

Responding to committee members' questions, the KMBC officer stated that (1) the KMBC, a nonprofit agency, serves as a conduit between the minority business community and the corporate community but, at the state level, is finding it difficult to "even get our foot in the door" to promote contracting opportunities at that level; (2) the biggest obstacles for women and minority businesses are lack of information and lack of capital; (3) Connecticut has a small/minority business set-aside program, and New Jersey's governor has issued an executive order to provide more opportunities to small/minority businesses; (4) he would furnish committee staff written suggestions for possible legislation or an executive order; and (5) under the U.S. Supreme Court case *City of Richmond v. J. A. Croson Co.*, there are ways to include minority businesses in state contract opportunities if the state really wants to do so.

In the committee's discussion, the point was made that there is an attitude problem. There will always be an issue whether there can or cannot be set-asides, but there are other ways to solve the problem. Any administration can take a proactive attitude of inclusiveness and make headway in providing more opportunities for women, minority, and disadvantaged business to participate in state contracts.

Officials from the Finance and Administration Cabinet (FAC) were present to join the discussion. They provided information about FAC's "eProcurement" Web site, which posts every contract put out for bid and allows prospective vendors to register there to be included in automatic bid notifications by e-mail; FAC policy #111-55-00, requiring all agencies to consider minority and women business enterprise vendors when purchasing within their small-purchase authority; cooperation with the Small Business Administration and the Economic Development Cabinet's Kentucky Procurement Assistance Program in conducting education programs to teach vendors how to bid on state contracts; contracts bid in the last several years that had points awarded for minority participation (normally 10 percent of the overall bid package); efforts in working with Louisville's Minority Enterprise and Development Week and Lexington/Fayette County's minority business expo; and intention to recommend legislation in the 2005 Regular Session to raise the threshold for performance bonds from $25,000 to $40,000, a significant issue for small-business contractors and startup companies. A lengthy discussion ensued that included suggestions from committee members that FAC be aggressive in building more participation in state contracts by minority-, women-, and disadvantaged-owned businesses. FAC should implement procedures to reach out to these out to these businesses when bids are received that demonstrate no minority participation; track bidding and participation information from these businesses in a database that includes the reasons bids were not accepted; and, most of all, develop a strong attitude of inclusiveness in the bidding and awarding of state contracts.

The executive director of the Governor's Office for Minority Empowerment (OME) also addressed the committee, agreeing that there is an attitude problem and noting that OME has been reviewing the issue and working with FAC and the KMBC to develop a plan to increase the participation of women- and minority-owned businesses in state contracts. OME is currently working on a state-regulated certification program; although, currently, the timeline for the plan is not finalized.

The committee also heard from and discussed the issue with a retired African American Kentucky State Senator, the executive director of the Justice Resource Center, and the executive director of the Kentucky Human Rights Commission—all of whom were in the audience. Their recommendations included urging the legislature to become actively committed to developing policy and providing oversight to facilitate increased participation in state contracts; following the lead of programs in Illinois, Maryland, Indiana, and other states where models are in place and are working; and developing a strategic plan to address the problem.

The officials from the Finance and Administration Cabinet, the president and CEO of KMBC, and the executive director of the Governor's OME were asked to meet with the executive director of the CHR, the executive director of the Justice Resource Center, and representatives of Louisville's Metropolitan Sewer District and return to the committee's October meeting to discuss their ideas and proposals for making a difference in this issue.

At the September meeting, the committee reviewed three reorganization executive orders—Executive Order 2004-728 (reorganization of the Governor's Office, Personnel Department, and the Department for Local Government), Executive Order 2004-723 (reorganization of the Finance and Administration Cabinet), and Executive Order 2004-903 (reorganization restoring the Department of Personnel to cabinet status).

Officials from the Personnel Cabinet and Mercer Human Resource Consulting presented information about the state group health insurance program. They noted a general trend away from HMO and POS plans toward PPO plans. Mercer estimated that if design changes were not made to the state's program, the 2004 PPO Option-A premium would likely increase to $410 in 2005, and state expenditures for active employees would increase by about 40 percent to $508 million in 2005.

The secretary of the Personnel Cabinet described changes in benefit design for the 2005 plan year. These changes included employee contributions toward monthly premiums based on 10 salary bands, increased premium subsidization of family coverage, changing copayments to coinsurance, nonsmoker incentives, and a reduction in the contribution toward flexible spending accounts for employees who waive coverage. The Governor had issued the call for a special session the day before the meeting to address the state health insurance program. The secretary indicated that the General Assembly's options would be limited in addressing the insurance plan because contracts had already been signed, but that the General Assembly could increase benefits or the amount the state pays toward insurance.

The committee reviewed 05 RS BR 176, which proposed salary increases and establishment of a health reimbursement arrangement for state employees and school board employees as a means of assisting employees with increased health care costs. Committee members requested information from the Personnel Cabinet on the state health insurance program for use during the special session.

At the committee's final meeting on November 22, the Auditor of Public Accounts presented an audit of the state's Procurement Card Program. The audit made more than 100 recommendations for improvements in the program. It noted that while past policies and procedures left the program open to abuse, the Auditor's office found no evidence of widespread abuse. The Auditor stated that the ProCard program would be included in future audits of the executive branch. The secretary of the Commerce Cabinet indicated that his office had found significant evidence of abuse, especially in the Department of Parks. Officials from the Finance Cabinet indicated that a number of changes to the ProCard policies and procedures had been made both before and after the audit was conducted, including a reduction in the number of cards issued.

The commissioner of the Commonwealth Office of Technology (COT) presented a review of the agency's goals. These goals included cost reallocation through consolidation of hardware, increased security, and recruitment and retention of skilled information technology staff. The commissioner stated that he believed the reorganization moving COT from the Governor's Office to the Finance Cabinet offered better opportunities for acquiring necessary funding for the agency's programs and goals.

Representatives of the Finance and Administration Cabinet and the Governor's Office for Minority Empowerment presented an update on their discussions since the August meeting of the committee regarding the actions they planned to take to increase women- and minority-owned business participation in state contracts. The Finance Cabinet had begun holding training sessions at area development district offices to inform minority contractors on the availability of state contracts and the bidding process. Agency representatives indicated they might seek a revision in KRS 45A.190 to increase the bonding threshold, which would make it easier for minority and disadvantaged contractors to bid for state work. The executive director of the Governor's Office for Minority Empowerment stated that her agency and the Finance Cabinet were working with the Kentuckiana Minority Business Council, the Lexington Chamber of Commerce, and the Urban League to offer further programs in the major cities.

Members of the committee stated that there was a need for ongoing review of these programs to assure that the state encouraged participation of minority- and women-owned businesses.

SUBCOMMITTEE ACTIVITY

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

During the 2004 Interim, the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs held two meetings.

At its first meeting, in August, the task force heard presentations on the implementation of the federal Help America Vote Act (HAVA). The State Board of Elections and Secretary of State reported that Kentucky had complied with all HAVA requirements having a January 1, 2004, deadline. An administrative complaint process has been established, administrative regulations on provisional voting have been promulgated, and voting information posters have been created and posted in precincts. The State Board of Elections informed the task force that $32,899,292 had been received on June 17, 2004, to implement HAVA Title 2 requirements that each precinct have voting machines accessible and available to disabled voters by 2006. The County Clerk's Association made a presentation of 2005 legislative proposals. The Kentucky Registry of Election Finance gave the task force an update on electronic filing, the registry's online database, and the registry's Web page.

At its second meeting, in November, the task force heard a presentation from the Secretary of State regarding legislative initiatives for the 2005 Regular Session, including issues related to vote hauling, electioneering, and changes to KRS Chapters 117 and 118. The task force heard information from the State Board of Elections regarding State Board of Elections Web site initiatives that include voter information centers, a voter registration verification system, a provisional voter page, and military and overseas voter pages. A post-election update was also given by the State Board of Elections. In the November 2004 election, approximately 65 percent of registered voters in Kentucky cast ballots, an increase of 4 percent over the 2000 November election. The task force was advised that the HAVA working group would be reconvened in December or January to continue to go over Kentucky's HAVA plan.

REPORT OF THE 2004 INTERIM JOINT COMMITTEE ON TRANSPORTATION

Rep. Hubert Collins, Co-Chair
Sen. Virgil Moore, Co-Chair

Rep. John Arnold
Rep. Carolyn Belcher
Rep. Denver Butler
Rep. Mike Denham
Rep. Jodie Haydon
Rep. Jimmie Lee
Rep. Paul Marcotte
Rep. Charles Miller
Rep. Lonnie Napier
Rep. Don Pasley
Rep. Rick Rand
Sen. Albert Robinson
Sen. Ernesto Scorsone
Rep. Jim Stewart
Rep. Jim Thompson
Sen. Johnny Ray Turner
Rep. John Vincent
Rep. Eddie Ballard
Sen. Charles Borders
Rep. Howard Cornett
Rep. Keith Hall
Sen. Ray Jones
Sen. Bob Leeper
Rep. Charles Meade
Rep. Russ Mobley
Rep. Rick Nelson
Rep. Marie Rader
Sen. Dorsey Ridley
Sen. Richard Sanders
Rep. Ancel Smith
Sen. Gary Tapp
Sen. Elizabeth Tori
Rep. Tommy Turner
Rep. Mike Weaver

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

PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION AND THE 2005 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; matters pertaining to the 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; and driver training schools.

COMMITTEE ACTIVITY

The Interim Joint Committee on Transportation met four times during the 2004 Interim.

During the first meeting, on June 21, the committee discussed the state's participation in unrebuildable motor vehicle titles and gasoline tax issues and reviewed three administrative regulations promulgated by the Transportation Cabinet.

Kentucky Revised Statute 186.530 allows for an automobile branded "unrebuildable" in another state (no longer permitted to be titled or operated on that state's highways), to be rebuilt, titled, and operated on Kentucky highways. The problem occurs when an individual purchases a vehicle that has been issued a rebuilt title in Kentucky previously had been branded unrebuildable, "junk," or "for parts only" by another state. When a person tries to title that auto in a state that does not allow titling of such vehicles, the consumer is stuck with a vehicle that cannot be licensed. The Transportation Cabinet reported that in 2003, Kentucky issued titles branded rebuilt to 44,183 motor vehicles, and of those, 2,100 had previously been issued titles branded unrebuildable by other states. In Kentucky, in 2003, there were 2,235 vehicles branded unrebuildable by other states, and in as of June 21, 2004, there were 1,200. States that issue unrebuildable titles are Florida, Tennessee, Ohio, Indiana, West Virginia, Michigan, Illinois, Maine, Massachusetts, and Virginia.

A representative from State Farm Insurance said that the insurance company represents about 20 percent of Kentucky's automobile market. In 2003, out of the 77,000 damaged vehicle claims, State Farm declared totaled approximately 11,000. According to Kentucky law, if a vehicle can not be restored for 75 percent of its value (parts and labor), that vehicle is deemed to be totaled.

A representative from the Kentucky Auto and Truck Recyclers Association presented personal information regarding her purchase of a truck that was branded unrebuildable in Florida because of minimal cosmetic damage. She stated that the truck was rebuilt in Kentucky and that she had driven the truck to Frankfort for today's meeting.

A representative from a Kentucky automobile auction business testified that her business was put in the middle of a titling dispute when a Kentucky seller sold a truck with a clearly marked Kentucky "rebuilt" title, and the Tennessee buyer was unable to title the vehicle in his state due to Tennessee's laws. She noted that her business chose to take back the truck and absorb the loss of the vehicle's $5,800 sales price.

During a discussion of the gasoline tax, the committee was given a brief history by Revenue Cabinet officials that showed Kentucky first enacted a 9 cents gasoline tax in 1920 and a special fuels tax on diesel in 1952. In 1980, the gasoline and special fuels taxes were based upon 9 percent of the average wholesale price of gasoline, with a minimum average wholesale price of $1 per gallon. In 1982, the General Assembly increased the minimum average wholesale price of gasoline to $1.11 per gallon setting the tax at 10 cents a gallon. Since the 10 cent tax rate was established, the actual wholesale price has been lower than $1.11 per gallon until it was raised to $1.22 per gallon for July 1, 2004, through September 30, 2004. In 1986, the General Assembly enacted the supplemental highway user tax of 5 cents per gallon on gasoline and 2 cents per gallon on special fuels.

The tax rates for gasoline and special fuels (diesel) are established each calendar quarter by the Department of Revenue. Until July 1, 2004, the gasoline tax rate had been 15 cents per gallon, and special fuels tax rate had been 12 cents per gallon. Effective for the calendar quarter beginning July 1, 2004, the gasoline tax rate will be 16 cents per gallon and the special fuels tax rate 13 cents per gallon.

The rates established for each calendar quarter are calculated by adding 9 percent of the average wholesale price of gasoline (a statutory minimum wholesale price of $1.11 per gallon with a maximum of $1.50 per gallon) and a supplemental highway user tax of 5 cents per gallon for gasoline and 2 cents per gallon on special fuels. The average wholesale price of gasoline (obtained from Lundberg Survey and the federal Energy Information Administration) is established each calendar quarter based on gasoline price data for the first month of the previous calendar quarter.

The average wholesale price of gasoline for the month of April 2004 was $1.22 per gallon. The increase in the average wholesale price over the statutory minimum of $1.11 resulted in a tax increase for the calendar quarter beginning July 1, 2004. The gasoline tax rate for July 1, 2004 through September 30, 2004, was 16 cents per gallon ($1.22 x 9%, which equals 11 cents per gallon and the supplemental tax of 5 cents). The special fuels tax for July 1, 2004, through September 30, 2004, was 13 cents (the 11 cents plus the supplemental tax of 2 cents).

The average wholesale price of gasoline for July 2004 will also determine the tax rates for the calendar quarter of October 1, 2004, through December 31, 2004. If the average wholesale price of gasoline falls below $1.11 per gallon, the tax rates will fall back to 15 cents per gallon for gasoline and 12 cents per gallon for special fuels. However, the tax rates will not increase more than 1 cent during the fiscal year ending June 30, 2005.

The last item on the committee's June agenda was a review of three administrative regulations: 600 KAR 4:010—Definitions and procedures governing the Disadvantaged Business Program; 600 KAR 4:021—Repeal of 600 KAR 4:020, current procedures for Disadvantaged Business program made obsolete by federal law; and 600 KAR 1:060—Permits for temporary car sales. All three committee-approved regulations were promulgated by the Transportation Cabinet.

The committee's July 6 meeting was held at the Transportation Cabinet's new facility in Frankfort, with a tour of that facility prior to the meeting. During the meeting, the committee reviewed an administrative regulation; discussed the charges for the use of the Automated Vehicle Information System (AVIS); and heard testimony regarding the implementation of 2004 House Bill 29, relating to auto insurance policy reporting.

The committee approved 605 KAR 1:060—Permits for temporary car sales, promulgated by the Transportation Cabinet.

The second item on the committee's agenda was a discussion of the fees charged various entities (automobile dealers, banks, insurance companies, etc.) for the use of AVIS. A representative from the Kentucky Automobile Dealers Association (KADA) said that the change in the way members are charged for use of the AVIS system is the result of Kentucky's new Internet home page, <Kentucky.gov>, that is operated under contract by Kentucky Interactive, Inc. Prior to the change when the Transportation Cabinet maintained the site, clients were charged a yearly fee of $125, which enabled that client unlimited access to the system anytime throughout that year. Now, under the new contract, clients are charged a $125 yearly fee, as well as $1 every time that client uses the system throughout the year. The breakdown of the money collected is that the cabinet receives $25 of the $125 subscription fee along with 50 cents of each dollar collected; the Motor Vehicle Commission receives the remaining $100 of the subscription fee and 10 cents of each dollar; and Kentucky Interactive Inc. receives the remaining 40 cents of each dollar. There are more than 240 dealerships in Kentucky, and KADA estimates the Transportation Cabinet should be receiving around $395,000 from both the combined yearly fee and the $1 fee per hit.

Several years ago, KADA worked with the Transportation Cabinet to develop a means for automobile dealers to access the Online Vehicle Information System (OVIS). He said that KADA then helped promote the system to its auto dealers. At that time, the cabinet assured KADA that the fee for the access would be minimal, and in fact, the cabinet set the original yearly fee at $250. He stated that the $250 yearly fee was lowered the next year to $125 and had remained at the $125 amount until Kentucky Interactive, Inc. took over the program. He said KADA feels the cabinet took advantage of their assistance and under no circumstances would KADA have promoted such a costly system to its automobile dealers.

An automobile dealer in Glasgow testified that he used the system prior to <Kentucky.gov> but cancelled when he learned of the additional $1 fee per access. He said he estimated that his dealership, which is a medium-size dealership, used the prior system approximately 200 times a month, which would have cost him around $2,525 annually. He said he could not justify the extra cost when his people could acquire the same information from the county clerk's office. Information would take longer to receive, but he preferred going back to the old way of collecting the information as opposed to paying more than $2,000 a year.

The next item on the committee's agenda was a presentation by the Transportation Cabinet on the implementation of 2004 House Bill 29. The cabinet said it was still in the process of looking into how other states collect their insurance information. The cabinet is currently doing in-depth research into three different methods of collection: (1) insurance companies must submit their total auto insurance information monthly; (2) insurance companies must submit their original insurance information and then report cancellations and new members monthly; or (3) insurance companies must submit their original insurance information and then report any changes monthly. The cabinet is currently leaning toward the third choice. Cabinet officials believe such a process could easily be checked against the cabinet's AVIS system.

At the committee's August 3 meeting, there was a followup on Kentucky Interactive, Inc.'s <Kentucky.gov> with AVIS data-sharing services; a discussion of licensing procedures for vehicles purchased outside a person's county of residence; and review of Executive Order 2004-724 - Reorganization of the Transportation Cabinet.

A spokesperson for Kentucky Interactive, Inc. said that OVIS began in 1999 as a pilot project designed to provide dealers with specific vehicle information over the Internet. Originally, the cabinet, along with the Motor Vehicle Commission (MVC), charged $250 per subscription, which was based upon the cabinet's cost estimate to run the program. Of that $250 fee, the cabinet received $150, with the remaining $100 going to MVC who administered the program once it was operable. In 2002, the cabinet reduced the subscription fee to $125, with the cabinet receiving $25 and MVC continuing to receive its $100 per subscription fee.

In February 2003, as part of the Commonwealth's e-Government Internet initiative, it entered into a service-level agreement with Kentucky Interactive, Inc. to administer OVIS. That service-level agreement was based on a self-funding model that funds e-government services without using taxpayer dollars through fees generated by the program's users. Neither the cabinet nor Kentucky Interactive, Inc. can arbitrarily set OVIS's fees; that can only happen once a fee increase is approved by the Electronic Services Committee and after receiving approval from both the cabinet and MVC.

Under the new administrator, lending institutions, such as banks and credit unions, as well as insurance companies, can now utilize this service for the same subscription fee as automobile dealers. This service was not available to banks and insurance companies under the previous system created by the Transportation Cabinet.

Kentucky Interactives, Inc. plans for the future include implementation of enhancements that will increase convenience and lower user cost. One initiative involves adding the ability to monitor changes to a title without having to look the title up again (and thereby pay the fee a second time). It was estimated that the average title is checked five to seven times. This change would reduce that number. The company intends to increase the information provided per search to include the vehicle tag number, registration number, taxable value, file number, and date (should it become available on the AVIS system).

Kentucky Interactive, Inc. and the Transportation Cabinet then responded to three requests addressed in a letter to the secretary of the Transportation Cabinet from the committee. The three committee requests and the cabinet responses are set out below:

1. The committee requested an accounting of how funds received under this program have been expended.

   The cabinet officials responded that its funds are allocated to the Road Fund, while MVC funds go directly into its general operating budget.

2. The committee requested a yearly history of the number of subscribers to the OVIS database and an accounting of revenues to the cabinet, MVC, and the contractor.

   Cabinet officials responded that from February to June 2004 (the months of operation under Kentucky Interactive), there were 192 subscribers who looked up information 55,953 times (Internet hits). Thus, total revenue generated by OVIS was $79,953, of which the Transportation Cabinet received $32,776; MVC (who still received $100 per subscription fee) received $19,982; and Kentucky Interactive retained $27,294.

3. The committee requested the initial and ongoing cost to the Transportation Cabinet to supply this data to both the dealers and the other subscribers under the original program, as well as to <Kentucky.gov> under the current program.

   Cabinet officials responded that significant hardware, software, and infrastructure differences exist between the two systems. The AVIS system was built upon older technology, which the Commonwealth had set a strategic goal to migrate away from several years ago; and OVIS is based upon Internet technologies and uses an Internet browser for accessing the data/system. There was no possible way to offer the current system to both dealers, financial institutions, and insurance companies under the cabinet's original program.

The next item on the committee's agenda was a discussion of licensing procedures for vehicles purchased outside a person's county of residence. A Kentucky County Clerk's Association representative referred to two pieces of legislation from the 2004 Regular Session, House Bills 348 and 399. House Bill 348, which did not pass, sponsored by Representative Ted Edmonds, provided that fees from 3 percent of the U-

Drive-It tax be deposited monthly into a newly created county clerk motor vehicle registration supplement fund. House Bill 399, which also did not pass, sponsored by Representative Ancel Smith, required motor vehicles to be registered in the county of the owner's residence.

The committee objected to using Road Fund dollars to subsidize the state's county clerks.

The committee heard testimony about safety concerns of local law enforcement officers. An officer from Knott County said he was always more apprehensive when pulling over an automobile that did not have a Knott County license plate.

The president of the County Clerk's Association said this was a difficult issue. He understood that the smaller counties needed additional revenue; however, he was not in favor of reducing the revenue in the larger counties.

The committee also approved Executive Order 2004-724 - Reorganization of the Transportation Cabinet. This reorganization eliminated two departments and two offices, both of which were absorbed into other areas of the cabinet. No employees were terminated as a result. The Division of Aeronautics became the Department of Aviation, with plans to upgrade most of the state's airports to attract new businesses. New construction is currently underway for two new airports, one in Williamstown and the other in Morehead.

The deputy secretary of the Transportation Cabinet said chief district engineers have been named in each of the 12 highway districts. Two "super district" engineers were appointed, one for districts 1 and 2 and another for districts 10 and 11. Each chief will divide his or her time between the two districts, and an assistant will be hired for each of these four districts. He said the cabinet looks upon this as a pilot project and if it works well, the cabinet may consider doing something similar in other districts.

During the committee's final meeting on September 7, Transportation Cabinet officials testified concerning the cabinet's transportation system; the lag time for processing motor vehicle titles; the nationwide adoption of the Motor Carrier Safety Improvement Act; and two administrative regulations.

The Pavement Management Branch Manager from the Division of Operations, Kentucky Transportation Cabinet, gave a presentation on the Commonwealth's transportation system. He presented an overview on the maintenance of Kentucky's highway network (interstates, parkways, and rural and secondary roads), as well as its pavement management system.

According to Transportation Cabinet officials, Kentucky has 762 miles of interstate. These interstates represent 2 percent of the state's road miles, but carry 31.2 percent of all traffic. The parkways consist of 648 miles, which equal 2.4 percent of the state's road miles, and carry 5.1 percent of all its traffic. Kentucky's primary system includes 3,290 miles and accounts for 27 percent of the traffic. Kentucky's secondary road system is 6,339 miles and accounts for 26.8 percent of the state's traffic. Kentucky's rural and secondary system has 12,130 miles and handles 8.5 percent of its traffic. Kentucky's supplemental road system includes 2,264 miles and accounts for 8.3 percent of all traffic. In total, Kentucky has 27,439 miles of state-maintained roads, accommodating 40.8 billion road miles traveled annually.

The cabinet's vision is to maintain a safe and reliable transportation system supporting Kentucky's future economic growth, national competitiveness, and overall quality of life. Its aim is to make the contracting process fair and geographically equitable by establishing a level playing field, guaranteeing the best value, and making all decisions based upon value, need, and service.

With regard to resurfacing Kentucky's road systems, the ideal resurfacing cycle is 10-11 years on interstates, 11-12 years on parkways, 13-14 years on state primary roads, 14-15 years on the state's secondary system, and 16-20 on its rural and secondary roads. Kentucky is presently resurfacing its interstates every 14-15 years, and that the state has a backlog of projects because of this longer resurfacing cycle.

The Transportation Cabinet uses a five-step approach with its pavement management system (PMS). That approach is to identify need; rank pavement projects; allocate resurfacing funds based on need, cost, miles maintained, and condition of highway system; estimate present funds and what will be required for the next six years; and assess ride quality of new pavements. In an independent study conducted by Coopers & Lybrand in 1996, pavement smoothness was rated the leading concern of the traveling public. Rough pavements not only generate complaints from highway users, but they do create safety hazards, cause vehicle damage, and increase fuel consumption. He said smooth roads have also been found to last longer.

Interstate and parkway pavements are evaluated yearly. These evaluations include the extent and severity of wheel path cracking, raveling/faulting, other types of cracking, and patching. Appearance, change in rideability from the previous year, rutting, condition of shoulders and guard rails, and estimating the remaining life of the system are other evaluations conducted on interstates and parkways.

In 2003, 49 percent of the interstates were in good condition, 21 percent in fair condition, and 30 percent in poor condition. In that same year, 38 percent of the parkways were in good condition, 20 percent were fair, and 42 percent were in poor condition. In 2003, 41 percent of all of Kentucky's highways were in good condition, 39 percent in fair condition, and 20 percent in poor condition. The cabinet's 2005 proposed resurfacing program for its primary road system entails a price tag of $67 million and $30 million for its rural secondary road system.

In closing, there was testimony that current funds are not available to adequately maintain Kentucky's road system. Based upon PMS data, analyses, and recommendations, Kentucky's current proposed budget is underfunded to maintain the system. The interstates need $180 million, with only $80 million currently budgeted; parkways need $50 million, with a current $40 million budget; primary road rehabilitation needs $20 million, with $10 million in the budget; and resurfacing needs $120 million, with only $97 million appropriated. Further, the present overall budget only provides for $478 million, which includes the resurfacing amounts listed above plus $178 million for maintenance, $36 million for traffic, and $40 million for rural secondary roads. However, realistically, the cabinet needs $656 million, an overall discrepancy of $178 million annually to maintain a good highway system in Kentucky.

Commissioner of the Transportation Cabinet's Department of Vehicle Regulations said the lag time for processing an automobile title has recently been reduced from 32 working days in June to the current 20 working days, with an eventual reduction to 10 to 12 working days. He commented it would be difficult to further reduce that time due to the mandatory paper trail that accompanies title processing. Rebuilt titles currently have a lag time of 10 days, and it is his hope to reduce that time to receiving the title on the same day or at least by the next day.

The lag time reduction has been accomplished by redesigning a portion of the title process. This lag time began last year resulting from staff cutbacks in August and continued with the cabinet's move into its new facility in February of this year, when it lost about 10 working days during that move. The commissioner commented that everything should be running smoothly by the first of October.

The next item on the committee's agenda was a discussion on the nationwide adoption of the Motor Carrier Safety Improvement Act (MCSIA) of 1999. The Act's purpose is to remove unsafe commercial drivers license (CDL) holders from the nation's highways, with its final rule containing 15 provisions that affect drivers, motor carriers, and states. The deadline for compliance is September 30, 2005. Several of the provisions are in Kentucky's current statutes; however, five provisions are not in Kentucky statutes or are in direct conflict with them. These five provisions are

1. States must not mask, defer imposition of judgement, or allow an individual to enter a diversion program that would prevent a conviction in any type of vehicle from appearing on the CDL driver record. This would include out-of-state speeding, purging CDL holders under 21 years of age who receive a .02 DUI infraction, and masking state traffic school attendance and the infraction that prompted the school attendance.

2. A new school bus endorsement is required. Applicants wanting to operate a school bus must pass knowledge and skills tests in additional to the general knowledge and passenger endorsement tests. Currently licensed school bus drivers may be grandfathered from the skills test if they meet the criteria.

3. An Imminent Hazard Clause must be established. States must disqualify drivers if the Federal Motor Carriers Safety Administration determines a driver to be an imminent hazard to the safety of others on the road.

4. Three new serious violations must be established: driving a commercial motor vehicle (CMV) without a CDL; driving a CMV without a CDL in the driver's possession; and driving a CMV without the proper class of CMV endorsement.

5. Two new major disqualifying offenses must be established: driving a CMV while a CDL is suspended or canceled; and causing a fatality through negligent operation of a CMV (first offense increases to 1 year in lieu of 6 months and second offense is permanent suspension in lieu of the current 12-month suspension).

The noncompliance risks to Kentucky are

1. Loss of 5 percent of federal aid highway funds ($25 - $30 million) for the first year, and loss of 10 percent ($50 - $60 million) the second and subsequent years.

2. Loss of Motor Carrier Safety Assistance Program grant funds ($2 to $3 million).

3. Decertification of CDL program (prohibited from issuing, renewing, transferring, or upgrading CDLs).

In closing, the committee approved two regulations, both promulgated by the Transportation Cabinet: 601 KAR 1:005 - Safety administrative regulation and 603 KAR 4:010 - TODS signs, placement on public roads other than interstates or parkways

.

REPORT OF THE 2004
ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Rep. Tanya Pullin, Co-Chair
Sen. Damon Thayer, Co-Chair

Sen. Joey Pendleton
Sen. Richard L. Roeding
Sen. Gary Tapp
Rep. James Bruce
Rep. Jimmie Lee
Rep. Jon David Reinhardt

LRC Staff: Emily Caudill, Dave Nicholas, Donna Little, Sarah Amburgey, Karen Howard, Laura Milam, Jennifer Harrison, Emily Harkenrider, and Ellen Steinberg

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 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; and 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 40 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 2004 through November 2004, executive branch agencies filed 70 emergency administrative regulations and 373 ordinary administrative regulations. Of the ordinary administrative regulations filed, 80 were new, 250 were amendments to existing administrative regulations, and 43 were amended after comments. The Administrative Regulation Review Subcommittee reviewed all of the ordinary administrative regulations. Of those administrative regulations reviewed, 1 was found deficient, 234 were amended to conform with KRS Chapter 13A and other appropriate statutes, and 117 were approved as submitted by the agency. Additionally, 3 administrative regulations expired and a total of 10 administrative regulations were withdrawn by the agency during this period.

In August, the subcommittee staff and the regulations compiler conducted two training sessions for representatives of the Environmental and Public Protection Cabinet. One of the training sessions was devoted to the administrative regulations process and the other was on drafting administrative regulations. Approximately 60 representatives of the cabinet participated in this training.

In August of 2004, the Legislative Research Commission published the Administrative Regulations Service of Kentucky, which contains administrative regulations in effect as of August 15 of each year.

**REPORT OF THE 2004
CAPITAL PLANNING ADVISORY BOARD**

**Sen. Jack Westwood, Co-Chair
Rep. Perry Clark, Co-Chair**

Sen. David Boswell	William H. May III
Bradford L. Cowgill	Norma Northern
Rep. Ron Crimm	John C. Roach
James L. Deckard	Laurel True
Ben S. Fletcher III	Garlan Vanhook
Paul Gannoe	Judge William Wehr
William H. Hintze, Jr.	Melinda Wheeler

LRC Staff: Pat Ingram, Mary Lynn Collins, Nancy Osborne, and Debbie Rodgers

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

CAPITAL PLANNING ADVISORY BOARD

JURISDICTION: The 1990 General Assembly established the Capital Planning Advisory Board (CPAB) of the Kentucky General Assembly. It is composed of 16 members appointed by 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 2004 Regular Session, the Capital Planning Advisory Board has held one meeting. The board met on August 3 and heard presentations on capital planning issues from two executive branch agencies. The commissioner of the Finance and Administration Cabinet's Department for Facilities and Support Services reported a revision to the long-range plan for housing state agencies in the Frankfort area and provided an update on the status of implementing a statewide facilities management/real property database. The president of the Council on Postsecondary Education reviewed capital projects issues in the context of the 1997 Postsecondary Education Improvement Act. He also reported that a comprehensive review of the funding model for postsecondary education is now underway and will include a review of the process for developing capital budgets and capital recommendations.

The board will meet once more in 2004. The major item on that agenda will be action on the instructions and forms for the 2006-2012 agency capital plan submissions, which are due April 15, 2005. Other items on the agenda are expected to be reports from the commissioner of the Commonwealth Office of Technology and from the Administrative Office of the Courts.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Sen. Bob Leeper, Co-Chair
Rep. Jodie Haydon, Co-Chair

Sen. Tom Buford	Sen. Virgil Moore
Rep. Robert Damron	Sen. Jerry Rhoads
Rep. Paul Marcotte	Rep. Jim Wayne

LRC Staff: Mary Lynn Collins, Pat Ingram, Nancy Osborne, Kevin Mason, Bart Hardin, and Shawn Bowen

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 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 (1) the expenditure of funds budgeted for capital projects; (2) the allotment of funds from the Emergency Repair, Maintenance, and Replacement Account and the Capital Construction and Equipment Purchase Contingency Account; (3) the state's acquisition of capital assets, including the lease of real property; (4) the issuance of bonds by the Commonwealth and related individual projects; and (5) 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, 2003, and October 31, 2004. During this period, the committee met 12 times. Eleven of the committee's meetings were held in Frankfort in the Capitol Annex. In June 2004, the committee held its meeting in Frankfort at the new Transportation Cabinet Office Building, a recently completed capital project.

The committee followed closely this year the rising cost of steel and other construction materials. By March 2004, there were reports that contractors across the country were experiencing price increases of 20 percent to 60 percent on a variety of steel products. Similar increases were reported for plywood, lumber, ductile iron pipe, and copper water tubing. Shortly thereafter, the committee received several requests for scope increases on projects related to higher prices for steel and other construction materials. In May 2004, the committee suggested that the scope of proposed projects might need to be reviewed to assure the project estimates are still valid. In September 2004, the committee approved scope increases for three Department for Military Affairs' projects, which were due to the rise in steel prices and the increased costs of construction materials that resulted from the hurricanes that hit Florida this summer.

The committee spent portions of several sessions reviewing a proposal by the Kentucky Housing Corporation (KHC) to issue conduit bond financing for multifamily housing projects. As a "conduit," KHC agrees to issue bonds at a tax-exempt rate for benefiting institutions, but the institutions have the full responsibility for repayment of the bonds. The committee deferred action on the first proposed conduit financing for the Falcon Crest Apartments project in Louisville and asked KHC to work with the committee's staff on the development of guidelines for conduit financings. As a result, KHC developed new rules that require applicants for conduit financing to submit documentation that includes a letter of support from the mayor or county judge/executive as well as notification of other local officials, a physical needs assessment, a market study, verification the project will meet applicable planning and zoning laws, and a proposed design including plans and specifications drawn to scale. Based on its review of the new procedures established by KHC, the committee approved the proposed

Multifamily Housing Conduit Revenue Bonds for Falcon Crest Apartments project ($10,965,000) as well as the Village Manor project ($10,250,000), also in Louisville. KHC indicated that it planned to participate in additional conduit financings in the future.

During the reporting period, the committee began to receive official notification from agencies concerning their plans to use a construction delivery method other than the design-bid-build method. This was done in compliance with legislation enacted by the 2003 General Assembly. The only agencies that reported use of alternative methods during the reporting period were the University of Kentucky and the University of Louisville. The University of Louisville reported it planned to use construction management-at-risk for the Cardiovascular Innovation Institute project as it did for the Biomedical Research Facility and the Belknap Research Facility. Under this method, a construction manager will be used instead of a general contractor. The construction manager is typically brought in early during the design phase to assist with cost estimates and scheduling, and at some point in the process, takes the risk, typically assumed by a general contractor, for delivering the project on time and within budget. The University of Kentucky reported that it planned to use the design-build method on three projects: Boone Faculty Center, the Center for Pharmaceutical Science and Technology, and Parking Structures #6 and #7. Under this method, a team is hired under a single procurement for design and construction rather than the traditional method where a construction contract is not awarded until design is completed. (The Finance and Administration Cabinet used design-build teams for four projects initiated several years ago, but did not indicate any plans to use the alternative delivery method in the near future.)

The committee also began reviewing for the first time energy savings performance contracts (ESPCs). Under an ESPC, a contractor agrees to design, finance, install, or manage energy conservation measures in state buildings and guarantees a level of energy savings. If the project does not generate the guaranteed level of energy savings in any given year, the contractor must reimburse the owner the amount of the shortfall.

Pursuant to legislation passed in the 2003 Regular Session, all ESPCs must be reviewed and approved by the Finance and Administration Cabinet’s Office of Financial Management and reported to the committee (KRS 56.770–56.784). The Finance and Administration Cabinet presented the first three ESPC contracts procured by the cabinet: Kentucky Community and Technical College System ($3,032,544–13-year term); the Capital Plaza Tower ($1,006,759–6-year term); and the London and Madisonville State Office Buildings ($949,792–11 year term).

During its review of an audit completed by the State Auditor on leases procured by the Finance and Administration Cabinet, the committee learned that the Auditor was not conducting a similar review of leases procured by the postsecondary institutions as had been done in the past. The State Auditor noted that the statute that requires the Auditor to do a biennial compliance audit only refers to the Finance and Administration Cabinet. As a result, the committee asked the president of the Council on Postsecondary Education to work with the institutions to suggest how to assure a similar review of their lease law compliance is performed. The president suggested several options: (1) amend KRS 164A.570 to stipulate that each institution include review of lease law compliance in its required external audit; (2) ask the institutions to have internal auditors perform compliance audits; or (3) ask the institutions to report to the committee on their compliance with state lease laws. The president suggested that the first option "may be the best choice." The committee will continue to work on this issue at its December 2004 meeting.

In December 2003, the Chairs of the Capital Planning Advisory Board presented the 2004-2010 Statewide Capital Improvements Plan, which included both policy recommendations and specific project recommendations. The committee also received a report from the Finance and Administration Cabinet concerning long-range plans for housing agencies in Frankfort.

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

Review of Unbudgeted Capital Projects

The committee approved 22 unbudgeted capital projects with a total scope of approximately $32.6 million. KRS 45.760(14) permits a capital construction project to be authorized even though it is not specifically listed in an enacted budget if at least 50 percent of the costs are from private or federal sources and if the project is presented to the committee for review. The unbudgeted projects approved by the committee were funded through a mixture of federal grants, state funds (mostly restricted funds), and private donations. These projects are listed below.

Education Cabinet—Enhancement of the Benefit Audit Reporting Tracking System ($563,000 federal funds) for the Department for Employment Services; and Information Technology System in Support of an Individual Learning Plan Tool for Kentucky Students for the Department of Education (in excess of $400,000 - federal funds).

Environmental and Public Protection Cabinet—Link to National Environmental Exchange Network ($650,000 federal funds).

Cabinet for Health and Family Services—Bio-Terrorism Preparedness and Response Information Technology Project ($2,850,940 federal funds).

Justice and Public Safety Cabinet—Computer Hardware Purchase for the Automated Fingerprint Identification System ($502,000 federal funds and $168,000 restricted funds); and Lease-Purchase of a Statewide Radio System for the Department for Kentucky Vehicle Enforcement (total cost of seven-year lease is $1,500,000 federal funds and $1,052,000 operating funds that will not be needed to pay for radio maintenance and cell phone usage).

Department of Military Affairs—VETS Building Replacement at Boone National Guard Center ($825,000 federal funds and $275,000 Maintenance Pool funds); Mobile Command Post Vehicle Purchase ($650,000 federal funds); and Second Mobile Command Post Vehicle Purchase ($300,000 federal funds).

Kentucky Community and Technical College System (KCTCS) —Vehicle and Pedestrian Connection at Somerset Community College ($1,200,000 federal funds).

University of Kentucky—Design of a Basketball Practice Facility ($2,500,000 private funds); Multi-Purpose Facility Addition to the Nutter Field House ($4,000,000 private funds); Acquisition of Mersack Building (gift with estimated value of $1,425,000); Replace Memorial Coliseum Court Lighting ($600,000 private funds); Renovate IRIS (Integrated Resource Information Systems) Project Facility ($626,500 restricted funds and $626,500 private funds); Electronic Access Rural Demonstration Project for the College of Law ($1,987,477 federal funds); and Renovate-Expand Boone Faculty Center ($4,377,000 private funds). While the committee approved the proposed renovation for the Boone Faculty Center, members expressed concern that the University had brought the project forward without written commitments for the money. The committee was told that the president was aggressively pursuing fundraising for the project and had access to other private funds that could be used for this purpose in the event the fundraising effort was not entirely successful.

University of Louisville—Renovation of Threlkeld Hall ($300,000 private funds and $200,000 restricted funds).

Western Kentucky University—Baseball Facility Improvements ($2,000,000 private funds); Renovate Van Meter Overlook and Construct Garden ($1,400,000 private funds); and Downing Center Dining Renovation ($200,000 restricted funds and $1 million from current food service vendor). The Downing Center Dining Renovation involves installation of an “order from the menu” style restaurant. The university will be required to pay any unamortized portion of the capital improvement if the university breaks the contract with the food vender for “no cause.”

Review of Budgeted Capital Projects

The committee received quarterly status reports on authorized projects and several times asked for additional information on specific projects. Several modifications in capital projects were reported, including a decision by the Cabinet for Health and Family Services to use funds ($1,150,000) authorized to assist in moving Eastern State Hospital to the VA Hospital on Leestown Road in Lexington for water piping replacement at Eastern State Hospital. The cabinet had concluded that the VA Hospital would not meet its needs, and while it intends to pursue construction of a new hospital to fit its needs, construction is not anticipated for some time. The secretary of the Finance and Administration Cabinet declared an emergency at Eastern State Hospital since it does not have sufficient water pressure to provide fire protection service. It should be noted that this was the project's purpose when it was first authorized in the 2000-02 budget. However, the project was modified in the 2002-04 budget when plans were made for the move to the VA Hospital.

Requests for scope increases. During the reporting period, a request was made to increase the scope of the VETS Building Replacement at Boone National Guard Center in Frankfort. The request was to increase the scope by $75,000 to a total of $1,175,000. The committee expressed concern that the increase was dependent on funds from the department's 2004-06 maintenance pool that had not yet been appropriated by the General Assembly. As a result, the committee voted to defer action until the following month. Shortly after the committee took this action, the secretary of the Finance and Administration Cabinet notified the committee that a delay would put the federal funds awarded for the project at risk and he was authorizing the Department of Military Affairs to proceed with the scope increase. The project ran into additional budget problems several months later when the bids came in over scope partly because of higher steel prices. In September 2004, the committee approved an increase of $385,000 ($384,000 federal funds and $40,000 more from maintenance pool funds provided under the Governor's Public Services Continuation Plan).

The committee approved 13 agency requests to increase the scope of authorized capital projects, using private, federal, or restricted (agency) funds. Requests were made primarily to permit the award of construction contracts and, in some cases, to specifically address increased costs of steel and construction materials as earlier noted. 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 committee approved several scope increases:

Cabinet for Health Services—Laboratory Information Management System ($300,000 federal funds increase for a revised scope of $1,075,000)**.**

Justice and Public Safety Cabinet—Kentucky State Reformatory Transition Dorm ($280,000 increase using restricted funds and funds from a miscellaneous maintenance pool for a revised scope of $1,180,000). The project was also modified to serve as an 80-bed medical unit rather than for transitional housing.

Kentucky State Fair Board—Freedom Hall Floor Refrigeration/Dehumidification ($25,000 increase using restricted funds for legal expenses in a lawsuit filed against the project's general contractor for a revised scope of $2,028,000).

Department of Military Affairs—Readiness Center at Morehead National Guard Armory ($1,318,180 federal funds increase for a revised scope of $6,592,800); and Engineer Fire Team Readiness Center at Wendell Ford Regional Training Center ($439,571 federal funds increase for a revised scope of $2,830,169).

Department of Veterans' Affairs—Renovate/relocate Special Care Unit at Thomson-Hood Veterans' Center ($715,000 federal funds and $385,000 restricted funds increase for a total scope of $3,950,000).

Kentucky Community and Technical College System—Hazard Community College-Hindman Branch Project ($300,000 in federal funds to include Headstart and Daycare Program in the facility for a scope of $5,056,388).

University of Kentucky—Integrated Resource Information Systems Project Facility ($267,727 private funds increase for a revised scope of $1,520,727).

University of Louisville—Baseball Stadium and Land Acquisition ($885,000 private and federal funds increase for a revised scope of $6,785,000) and Cardiovascular Innovation Institute ($6,080,000 increase for a revised scope of $27,580,000).

Murray State University—Equine Instruction Facility Addition ($75,400 increase using the University's Facilities Management funds and the Agriculture Improvement Fund—General Fund-supported—for a revised scope of $996,000).

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, there was only one allocation from the Capital Construction and Equipment Purchase Contingency Account. An allocation of $55,000 was made for the Big Bone Lick State Park project, Land Acquisition and Park Improvements. The allocation was needed to address low load bearing soil that was encountered during construction of the Visitors Center, which is part of the authorized project.

It should be noted that the single allocation of $55,000 from the account was a record-low use of the account since it was established in 1980. For comparison, in the previous year, five allocations were made from the account for a total of $2.6 million.

Emergency Repair, Maintenance, and Replacement Account. There was also less demand this year on the Emergency Repair, Maintenance, and Replacement Account. The committee reviewed 5 emergency allocations totaling $848,000—compared to 10 allocations made last year for a total of $5,727,000. 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 May and August 2004, allocations were made to address roof failures at National Guard Armories at Glasgow ($300,000) and Bardstown ($28,000). In June 2004, the committee reviewed an allocation of $110,400 to increase the project scope of the Natural Bridge State Park Water System Improvements project. The funds were needed to award the construction bid to the lowest bidder. Finally, in August 2004, the committee reviewed an allocation of $350,000 to repair storm damage at the Kentucky Fair and Exposition Center and Cardinal Stadium. All emergency allocations are to be reported to the committee within 30 days.

Review of Bond-Funded Loan/Grant Programs

Economic Development Bond projects. The committee reviewed and approved seven grants, representing $2,796,500 from the Economic Development Bond (EDB) Pool. This bond-funded program makes grants (forgivable loans) to local governments to leverage against private investment for economic development in the Commonwealth. In return for the assistance, companies are required to make commitments regarding job creation and/or job maintenance. The seven projects funded during the reporting period and the amount of EDB assistance awarded were 1) City of Shepherdsville (Bullitt County), Institutional Distributors, Inc./Gordon Food Service ($150,000); 2) Montgomery County Fiscal Court, Nestle Inc. ($100,000); 3) Gallatin County Fiscal Court, Argent Metals Technology ($200,000); 4) the City of Franklin (Simpson County), Harman/Becker Automotive ($196,500); 5) Warren County Fiscal Court, Bowling Green Metalforming (Magna) ($1,500,000); 6) Laurel County Fiscal Court, ABC Automotive Systems, Inc. ($200,000); and 7) the City of Madisonville (Hopkins County), Land O Frost ($450,000).

The committee also reviewed a report of EDB job creation and job maintenance requirements for projects previously approved. Of the 15 projects currently being monitored by the Cabinet for Economic Development, 12 (80 percent) are in compliance with job creation and maintenance requirements, and three (20 percent) are not in compliance and have made or are required to make an annual payment to the county in which they are located for those jobs not created or maintained.

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:

1. **Fund A (Federally Assisted Wastewater Revolving Loan Fund)—**Thirteen loans, including one planning loan, totaling $57,588,766, for the cities of Benton, Marion, Berea, Lawrenceburg, and Loretta; the Paducah-McCracken Joint Sewer Agency; the Morehead Utility Plant Board; the Jessamine-South Elkhorn Water District; the Hopkinsville Water Environmental Authority; the Floyd County Southern Water and Sewer District; and Kenton County Sanitation District No. 1. The loan to Kenton County for $30,606,750 (almost one-half of all Fund A loans made during the period) is the largest loan ever made by KIA.

2. **Fund C (Government Agencies Program, user-supported)—**Two new loans: $500,000 for the Cawood Water District; and $2,809,000 for the City of Nortonville.

3. **Fund F (Federally Assisted Drinking Water Revolving Loan Fund)—**Five loans, totaling $9,156,347 for the cities of Harlan, Eddyville, and Henderson; the Greater Fleming County Regional Water Commission; and the Meade County Water District.

4. **Fund B (State Drinking Water Fund)—**A loan of $700,000 to the Union County Fiscal Court on a no-interest, four-year term basis with the intent to later substitute coal severance funds allocated to Union County's single county coal severance account.

Review of Bond Issues and Financing Agreements

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

1. **Kentucky Infrastructure Authority (KIA)—**A total of $12 million in bonds was issued to fund the KIA Wastewater (Fund A) and Drinking Water (Fund F) Revolving Fund programs mentioned above.

   A total of $59 million in bonds was issued for the KIA Governmental Agencies Program (Fund C) to allow for the restructuring of the program. The bond proceeds were used to refinance/defease all current outstanding obligations related to Fund C.

   Fund C provides local governmental agencies access to funding through the municipal bond market at better terms than most local agencies could obtain on an individual basis. This program does not require General Assembly appropriations, and the bonds issued under this program do not require General Assembly authorization. Prior to this action, Fund C bonds contained a moral obligation clause that pledged that the state would seek appropriated funds to address a pending default by a local government issuer. As part of the restructuring, tax-exempt as well as taxable bonds for current noncallable bonds were issued under a new bond indenture. This new indenture does not include a state moral obligation clause.

As a result of this restructuring, participating local governments were able to reduce their debt payments. In addition, because the state provided $28 million for the restructured bonds debt reserve fund, local participants were refunded any previous contributions to the debt reserve fund.

2. **Kentucky Economic Development Finance Authority (KEDFA)—**In these particular issues, the state is only a conduit issuer for the sale of the bonds and has no legal or moral obligation for repayment of the debt. Four KEDFA bond issues were approved during the reporting period: a $34 million issue submitted on behalf of Health Alliance of Greater Cincinnati to refinance outstanding KEDFA Hospital Facilities Revenue Bonds, Series 2001E for the St. Luke Hospitals, Inc. Project in northern Kentucky; a $91 million issue on behalf of the Catholic Health Initiatives to fund improvements to health care facilities in Bardstown, Lexington, and London; a $4.4 million issue on behalf of the AHF/Kentucky-Iowa, Inc. to refund outstanding KEDFA bonds for nursing homes located in Lexington and Louisville; and a $45 million issue to fund improvements to the Ashland Hospital Corporation d/b/a Kings Daughters Medical Center Project.

3. **Postsecondary Institutions—**Eight bond issues totaling $138,395,000 were issued by various universities during the period. Four of the issues funded authorized projects while the remainder of the issues included the refinancing of existing debt to generate debt service savings.

4. **Kentucky Higher Education Student Loan Corporation—**One new issue totaled $350,000,000 to provide new money for student loans.

5. **Kentucky Housing Corporation—**Seven new issues totaling $768,850,000 to fund the purchase of low-income multi-family and single-family housing mortgages and to refund existing bonds and notes. In the two multifamily issues (Kentucky Housing Corporation Multifamily Housing Conduit Revenue Bonds, 2004 Series Village Manor Project and Kentucky Housing Corporation Multifamily Housing Revenue Bonds, 2004 Series A Falcon Crest Apartments Project), the KHC served as a conduit for the sale of the bonds and thus has no obligation for repayment of the debt.

6. **School district bond issues with School Facilities Construction Commission participation—**One hundred-six issues totaling $558,435,327.

7. **School district bond issues 100 percent locally funded—**Thirty-five issues totaling $250,290,000.

8. **Kentucky Asset/Liability Commission**–Since the establishment of the Kentucky Asset/Liability Commission (ALCo) in 1997, ALCo has annually issued Tax and Revenue Anticipation Notes (TRANs). TRANs are issued to manage the cash flow of the General Fund by using tax-exempt sources of funds to meet payment obligations of the state. However, due to the poor economic viability of such a transaction, no TRANs were issued in 2003. In 2004, the ALCo found it economically feasible to issue a TRAN and was authorized by the Capital Projects and Bond Oversight Committee at its June meeting to proceed with the 2004 TRAN program in an amount not to exceed $800 million.

   ALCo did not issue any short-term financing notes for capital projects during this period. However, an existing plan of financing was amended to provide for future financing of the existing balance of the University Agency Bond Pool and unissued Economic Development Bond Pool project authorizations from the 2003 General Assembly through House Bill 269. At the request of the Council on Postsecondary Education and the Economic Development Cabinet, ALCo adopted resolutions in May 2004 and June 2004, respectively, to amend and supplement the original Trust Indentures for its Agency Fund and General Fund Project Notes. This action preserved the 2003 authorization until permanent financing is provided.

9. **Kentucky Local Correctional Facilities Construction Authority—**One issue totaling $30,026,471 to refund existing bonds that generated debt service savings. The Local Correctional Facilities Construction Authority issues debt on behalf of local jail facilities. Debt issued by the authority is considered non-appropriation-supported debt. All savings realized from this refunding accrued to the participating local county governments.

10. **State Property and Buildings Commission—**Two issues totaling $840,921,699 to refund existing bonds to generate debt service savings. These two transactions alone generated approximately $20.7 million in present value savings during the period.

Review of State Leases

The number of new leases and lease modifications submitted for the committee's review has been significantly reduced the last two years. The 2002-04 budget bill prohibited any new state leases unless a lower annual cost could be documented. It prohibited lease improvements as well. The Governor's Office has continued the moratorium with few exceptions.

During the reporting period, the committee reviewed 14 state agency lease modifications. Three of these lease modifications increased annual rental payments by a total of $11,460 to cover the cost of state agency-requested improvements, another four increased the amount of space leased, and seven decreased the amount of leased space.

The committee approved the award by the Finance and Administration Cabinet of three renewal leases for office space in Boone, Jefferson, and Franklin Counties. These renewals represent $91,905 in increased annual rental costs.

The committee also reviewed one temporary emergency lease renewal for the Cabinet for Health and Family Services in Lewis County. The emergency lease was renewed for a period of five months until a new leased facility for the cabinet is completed. The leasing rate was increased from $4 to $12 per square foot. Based on the estimated cost of relocating ($15,000) for such a brief time, the cabinet agreed to the rent increase.

In addition, the committee reviewed an emergency lease for the Department of Military Affairs (DMA), Emergency Response Board, in Franklin County. The department obtained emergency replacement space due to environmental problems at its leased location. The building had moderate water damage as well as mold and fungal growth. The annual cost of the lease is $17,825. Also, the committee approved a temporary lease of office space for DMA while permanent space is being replaced at the Boone National Guard Center. The annual cost of the lease is $181,150.

The committee also approved the renewal of one lease for the University of Kentucky Markey Cancer Center, Information Services Department, at a cost of $248,618 annually (including $24,453 in renovation costs over a five-year period). The university increased the space to be leased from 6,558 to 14,709 square feet, but the leasing rate of $15.24 per square foot did not change. The cost of the lease will be covered with $23 million in federal funding from the National Cancer Institute.

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 Johnson County Judicial Center authorized by the 2000 General Assembly. The use allowance is a payment AOC makes to a county for court space and is structured to cover a county's debt service payments related to the financing of a court project. The AOC director indicated that the project had encountered several obstacles relating to site acquisition that delayed the bidding of the project. During the time the project bid was delayed, the prevailing wage rates for Johnson County increased. There was a lengthy discussion, with input from Labor Cabinet officials, concerning how much of the cost overrun was due to the prevailing wage increase. The committee approved increasing the scope of the annual use allowance for the facility from $595,900 to $686,400 (15 percent increase). The committee was told that this project was the last of the currently authorized court facilities to be bid.

REPORT OF THE 2004 EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Sen. David Williams, Co-Chair
Rep. Harry Moberly, Co-Chair

Sen. Lindy Casebier
Rep. Jon Draud
Sen. Dan Kelly
Rep. Mary Lou Marzian
Rep. Frank Rasche
Sen. Ed Worley

LRC Staff: Sandra Deaton and Lisa Moore

PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION AND THE 2005 REGULAR SESSION OF THE KENTUCKY GENERAL ASSEMBLY

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

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

SUBCOMMITTEE ACTIVITY

The subcommittee met four times prior to December 1, 2004.

In March, the subcommittee reviewed and approved six administrative regulations necessary for Kentucky's implementation of the federal No Child Left Behind (NCLB) Act. The chair of the State Board of Education, the commissioner of Education, and the deputy commissioner of the Department of Education discussed the amendments. The most controversial definitions were "full academic year" and "sufficient size for calculating participation rates." The regulation defines "full academic year" as the time the school is accountable for a student who is enrolled in the school year for any 100 instructional days from the first instructional day of the school year to the first day of the testing window.

"Sufficient size for calculating participation rates" means that a school or district has at least 10 students in a subpopulation in each grade in which NCLB assessments are administered and at least 60 students in the subpopulation in these grades combined.

703 KAR 5:020 concerns determining school accountability and implements several of the definitions in 703 KAR 5:001; 703 KAR 5:070 provides accommodations for students with disabilities and limited English proficient students; 703 KAR 1:120 encompasses assistance for schools and guidelines for scholastic audits; 703 KAR 1:130 relates to school district accountability; and 703 KAR 5:160 concerns administration procedures for testing.

At the June meeting, the director of the Office of Education Accountability (OEA) presented a proposal for the study of the Commonwealth Accountability Testing System (CATS) required by Senate Joint Resolution 156 (2004 RS). It was agreed that the subcommittee would request approval by the Legislative Research Commission for the issuance of two Request for Proposals toward the execution of personal service contracts between the Commission and consultants or consulting firms to assist OEA in fulfilling the directives within SJR 156. One consultant or consulting firm will conduct an extensive review of the research literature and indicate whether various methods of assessment have been shown to yield valid indicators of student knowledge of core content. One consultant or consulting firm will conduct regional focus group discussions with administrators, students, parents, and teachers regarding the CATS assessment, including, but not limited to, the writing portfolio process, the perceived impact of CATS on day-to-day instructional practices, and the cost factors relating to CATS assessment. The results of the focus group discussions will be used in the creation of a comprehensive survey instrument.

At the September meeting, the commissioner of Education and the chair of the Assessment and Accountability Committee of the Kentucky Board of Education discussed current activities in the Department of Education to improve the assessment and accountability system. The commissioner said it is timely to discuss changes and improvements because the current testing contract expires after the test results in 2006, a new request for proposal is required to be issued in 2005. He said the assessment and accountability system needs a longitudinal component, needs the test results returned to the schools sooner, needs Kentucky teachers involved in the scoring, and needs student accountability.

During the November meeting, the commissioner of Education reported on the 2002-2004 statewide CATS results. He reported that more than half of the state's public schools met or exceeded their individual goals and fewer than 50 will require assistance. He said that each grade level has registered gains since CATS was fully implemented in 2000. He expressed concern about high schools even though they are making some progress. He listed areas that require continued attention or resources:

- Achievement in high schools
- Novice students in schools in the progressing zone
- Districts and schools educating African American students, students for whom English is a second language, and students from disadvantaged backgrounds
- Strategies for students with disabilities
- Mathematics interventions for students and assistance to teachers
- Early childhood
- Technology infrastructure
- Strategies with low-performing schools, districts, and regions
- Literacy development

The director of the Office of Education Accountability gave a status report on the CATS study and reported that the focus groups have been conducted and that the survey has been sent to local school districts. The literature review is also being conducted.

REPORT OF THE 2003 - 2004 GOVERNMENT CONTRACT REVIEW COMMITTEE

Sen. Jack Westwood, Co-Chair
Rep. Brent Yonts, Co-Chair

Rep. Jesse Crenshaw	Rep. Kathy Stein
Rep. Jeff Hoover	Sen. Gary Tapp
Sen. Ernesto Scorsone	Sen. Elizabeth Tori

LRC Staff: Michael L. Meeks, Kim M. Eisner, and Jennifer A. Wilson

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY

GOVERNMENT CONTRACT REVIEW COMMITTEE

JURISDICTION: Provide legislative review of all nonexempt memoranda of agreement by and between state agencies and 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, Kentucky Student Loan Corporation, the Kentucky Retirement Systems, and other municipal corporations, 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; and 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 heath 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; and 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 2004 fiscal year, beginning July 1, 2003, and ending June 30, 2004, the committee reviewed 983 personal service contracts and 489 amendments to personal service contracts. The committee also reviewed 373 personal service contracts for $10,000 and less, which are submitted to the committee for informational purposes only.

Since the start of the 2005 fiscal year, beginning July 1, 2004, through November 9, 2004, the committee has reviewed 59 personal service contracts and 30 amendments to personal service contracts. The committee has also reviewed 28 personal service contracts for $10,000 and less, which are submitted to the committee for informational purposes only.

During the 2004 fiscal year, the committee reviewed 1,237 memoranda of agreement and 1,326 memoranda of agreement amendments. The committee also reviewed 1,292 memoranda of agreement for $50,000 and less, which are submitted to the committee for informational purposes only.

Since the start of the 2005 fiscal year through November 9, 2004, the committee has reviewed 46 memoranda of agreement and 185 memoranda of agreement amendments. The committee also reviewed 42 memoranda of agreement for $50,000 and less, which are submitted to the committee for informational purposes only.

During the 2004 fiscal year, the committee reviewed a total of 1,845 personal service contract items and a total of 3,855 memoranda of agreement items, for a total of 5,700 items.

Since the start of the 2005 fiscal year through November 9, 2004, the committee has reviewed a total of 117 personal service contract items and a total of 273 memoranda of agreement items, for a total of 390 items.

REPORT OF THE 2004
MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

Sen. Richard Roeding, Co-Chair
Rep. Paul Bather, Co-Chair

Sen. Walter Blevins	Rep. James Bruce
Sen. Tom Buford	Rep. Jack Coleman
Sen. Julie Denton	Rep. Steve Nunn
Sen. Dan Seum	Rep. Dottie Sims

LRC Staff: Barbara Baker, Robert Jenkins, Eric Clark, Perry Nutt, Murray Wood, and Cindy Smith

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

JURISDICTION: The Medicaid Oversight and Advisory Committee is required to meet at least four times annually and provide oversight on the implementation of Medicaid managed care within the Commonwealth, including access to services, utilization of services, quality of services, and cost containment.

COMMITTEE ACTIVITY

The Medicaid Oversight and Advisory Committee convened three times during the 2004 Interim. Topics heard by the committee included Medicaid modernization, utilization of the Kentucky All Schedule Prescription Electronic Reporting system by Medicaid, long-term care liability insurance, and workers' compensation.

Medicaid Modernization

The secretary of the Cabinet for Health and Family Services, the undersecretary for Health, and deputy commissioner of Medicaid provided testimony regarding the implementation of strategies to modernize Medicaid. The components of the modernization initiatives include pharmacy benefit management, care management, and technology enhancements.

The undersecretary for Health reported that the state's Medicaid expenditures for fee-for-service recipients was $703 million, an increase of 4 percent from fiscal year 2003 to fiscal year 2004. It was noted that 38,000 Kentucky Medicaid recipients have eight or more prescriptions per month, which increases the chance of drug interactions. An analysis of the Medicaid drug utilization data by the cabinet revealed several findings:

1. Inappropriate drug use among patients in 59 of 227 nursing homes with 50 or more patients;
2. Fifty to 60 percent of the individuals in long-term care facilities are on anti-psychotics, which is significantly higher than other states;
3. Approximately 27,000 Medicaid members take atypical anti-psychotics per month with 10 percent of this group taking dosages far in excess than the recommended dosage;
4. Ninety-five percent of long-term care facilities with 50 or more patients have 5 percent of patients on 20 or more prescriptions at one time, which is more than three other large states combined;
5. Approximately 33,000 Medicaid recipients receive 20 or more different prescriptions in a 180-day period at a cost of $300 million in prescription drug costs;
6. Approximately 35-50 Medicaid physicians/providers were identified with unusual drug prescribing patterns; and
7. The top 200 non-institutionalized Medicaid recipients averaged $227,739 each in Medicaid expenditures, with the total cost of $55.5 million.

The cabinet has contracted with First Health Services, a pharmacy benefit administrator, to support the Pharmacy and Therapeutics Committee's activities, perform clinical review, and process point-of-sale claims. First Health Services has supplied a dedicated project team for the implementation and two on-site pharmacists for the duration of the contract. Supplemental rebate negotiations will be provided by First Health Services, with the cabinet maintaining the responsibility for contracting with the drug manufacturers for these rebates. The contract was awarded to First Health Services on August 31, 2004. Pre-implementation is from September 1, 2004, to December 4, 2004. The anticipated full implementation date for the point-of-sale system is December 4, 2004.

The deputy commissioner of Medicaid reported that the pharmacy benefits administrator will assist providers with claims processing. A toll-free help desk telephone number will be available 24 hours per day and seven days a week. The help desk will address reimbursement issues and will immediately address prior authorization.

A representative of the American Pharmacy Services Corporation provided testimony in support of a pharmacy benefit manager for the purpose of improving claims processing and communication with pharmacy providers. Concern was noted that pharmacy benefit managers have recently attempted to diversify their businesses by entering into areas of benefit design and formulary management. The American Pharmacy Services Corporation urged that these policy decisions remain with the Kentucky General Assembly. Concern was also raised regarding whether some revenue being retained by pharmacy benefit managers should be returned to the plan sponsors paying for the benefit. The undersecretary for Health explained that contracting with a pharmacy benefit administrator will provide full disclosure of the rebates and associated fees.

The Department for Medicaid Services currently has an active procurement for an administrative agent to provide the following comprehensive services: (1) utilization review; (2) provider enrollment; (3) provider and member education; (4) customer services through a call center and the Internet; and (5) care management. Currently, National Health Services provides peer review services, including prior authorization, preadmission screening, concurrent review of admitted patients, and utilization services. The cabinet expects to award the contract for the administrative agent in February 2004, with phased implementation between March 2005 and October 2005.

The cabinet's undersecretary for Administrative and Fiscal Affairs informed the committee that the Medicaid management information system (MMIS) is outdated. The cabinet has implemented a Kentucky Health Card pilot program that replaces the monthly Medicaid eligibility paper card with a permanent plastic card. The cabinet has issued a Request for Proposal for a new MMIS that would utilize advanced technology. The contract is expected to be awarded during March 2005, with implementation by October 2005. The Request for Proposal emphasizes flexibility and the opportunity for system enhancement. It aligns the Commonwealth with the Centers for Medicare and Medicaid Services director and promotes enterprise architecture.

The secretary of the Cabinet for Health and Family Services provided an overview of short-term initiatives of the cabinet. These initiatives include (1) reducing inappropriate use of prescription drugs in the ambulatory patient population; (2) launching a targeted physician education program; (3) reducing inappropriate use of prescription drugs in the long-term care population; (4) reinventing the fraud and abuse hotline; (5) strengthening program integrity; (6) strengthening pharmacy administration; and (7) initiating targeted case management for high-cost recipients.

The undersecretary for Health provided an overview related to the activities of the Pharmacy and Therapeutics Committee. The committee has taken action on 53 drug claims. The cabinet filed amendments to 907 KAR 1:019 to enhance the ability of the cabinet to enter into supplemental rebates with drug manufacturers. The cabinet anticipates $32 million to be generated from supplemental rebates.

KASPER

The division director of the Division of Fraud, Waste and Abuse, Identification and Prevention reported that the Drug Enforcement Branch, which includes the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system, was moved to the Office of Inspector General. KASPER is receiving about 500 requests per day. It is anticipated that an electronic KASPER will be operational in early 2005. He reported that the implementation of the provisions of Senate Bill 14 of the 2004 Regular Session of the General Assembly provided positive changes, including the ability to run trend analyses and share information with provider regulatory boards and law enforcement officials. In addition, it was noted that the $350,000 Hal Rogers Grant is being used to implement user awareness and education and outreach.

Long-Term Care Liability Insurance and Workers' Compensation

The executive director of the Kentucky Office of Insurance provided testimony on liability insurance premiums for long-term care facilities. There are 31 companies providing this insurance. He reported that the Kentucky advisory loss cost for nursing facilities per $100 payroll in 1988 was $2.87 as compared to $3.73 in 2004. The National Council on Compensation Insurance advisory loss costs have not returned to the September 1, 1996, level of $4.53. Several socio-economic changes in the mid-1990s resulted in increased rates. These changes include a decrease in the government reimbursement rate for nursing facility services, the inability to pass costs on to the Medicare and Medicaid programs, and legislation to protect residents against abuse and assure that care standards are met. These factors have made it difficult for nursing facilities to maintain profits and standards of care. Beginning in 1996, there were more unexpected claims made to insurers, and the severity increased. Rates rose for nursing facilities from 7 percent of the hospital rate to 100 percent of the hospital rate.

The administrator of the St. Charles Care Center and the chief executive officer of Baptist Life Communities provided testimony regarding the increasing cost of workers' compensation insurance, general insurance, and professional liability insurance. She attributed the increase costs to the cost of medical care and physicians being overloaded. She reported that St. Charles Care Center de-licensed 44 beds in order to provide care that was consistent with their mission. For this center, workers' compensation insurance cost $101,000 for 2004. The center's liability insurance increased from $36,000 in 1999 to $241,381 in 2004. The center had only one claim for $3,000 in the past 43 years. The chief executive officer of Baptist Life Communities reported an increase in liability insurance from $50 per skilled care bed approximately 10 years ago to $842 per bed in 2004. General liability and professional liability cost between $260,000 and $285,000 for the last three years.

REPORT OF THE 2004 PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Sen. Katie Stine, Co-Chair
Rep. Charlie Hoffman, Co-Chair

Rep. Adrian Arnold	Rep. Sheldon Baugh
Sen. Charlie Borders	Rep. Dwight Butler
Sen. Brett Guthrie	Sen. Ernie Harris
Sen. Vernie McGaha	Sen. David Karem
Rep. Ruth Ann Palumbo	Rep. Rick Nelson
Sen. Dan Seum	Sen. Joey Pendleton
Rep. Jim Thompson	Rep. Dottie Sims

LRC Staff: Greg Hager, Kara Daniel, Rick Graycarek, Tom Hewlett, Margaret Hurst, Erin McNees, Van Knowles, Stacie Otto, Cindy Upton, and Susan Spoonamore

PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION AND THE 2005 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

During the 2004 Interim, the Legislative Program Review and Investigations Committee held seven meetings through November 2004.

The committee began the 2004 Interim with five ongoing studies that had been authorized in 2003: human service transportation delivery, the Kentucky Transitional Assistance Program, improper payments and uncollected revenues, adult protective services, and computer use by state employees. Staff surveyed members of the General Assembly during the 2004 Regular Session to solicit additional suggestions for topics to be considered for review by the committee.

At the May meeting, the first of the Interim, members of the committee elected House and Senate co-chairs. Staff presented the report *Human Service Transportation Delivery: System Faces Quality, Coordination, and Utilization Challenges.* The executive director of the Office of Transportation Delivery and a branch manager from the Division of Financial Management in the Department for Medicaid Services, responded to the report. A transportation broker also testified. The committee discussed the report and adopted it and its recommendations.

At the June meeting, staff presented the report *Improving Fiscal Accountability and Effectiveness of Services in the Kentucky Transitional Assistance Program*. The commissioner of the Department for Community Based Services in the Cabinet for Health and Family Services responded to the report. The committee discussed the report and adopted it and its recommendations. Staff provided a status report on the ongoing study of improper payments and uncollected revenues.

At the July meeting, staff presented Chapters 1 ("Objectives and Conclusions") and 2 ("Court of Justice") of the report *Uncollected Revenues and Improper Payments Cost Kentucky Millions of Dollars a Year.* The acting director and the general manager of Court Services from the Administrative Office of the Courts, a district judge, the secretary of the Finance and Administration Cabinet, and the deputy commissioner of the Division of Collections in the Department of Revenue responded to the report. Discussion of the report was continued until the August meeting.

At the August meeting, staff reviewed the findings for Chapter 2 of the report *Uncollected Revenues and Improper Payments Cost Kentucky Millions of Dollars a Year*. The Chief Justice of the Kentucky Supreme Court, two circuit judges, the Owen County Circuit Court Clerk, and officials from the Administrative Office of the Courts responded. Staff presented Chapter 3 ("Medicaid") of the report. Officials from the Cabinet for Health and Family Services—the commissioner of the Department for Medicaid Services, the Inspector General, and the director of the Division of Fraud, Waste, and Abuse in the Office of Inspector General—responded to Chapter 3. Discussion of the report was continued until the September meeting.

At the September meeting, staff concluded their presentation of the study *Uncollected Revenues and Improper Payments Cost Kentucky Millions of Dollars a Year.* The undersecretary for Children and Family Services and the director of the Division of Child Support in the Cabinet for Health and Family Services, the controller of the Finance and Administration Cabinet, and an executive director of the Department of Revenue in the Finance and Administration Cabinet responded to the report. The committee concluded its discussion of the report and adopted it and its recommendations.

Also at the September meeting, staff presented the report *Appropriate Management and Technology Can Reduce Costs and Risks of Computer Use by State Employees*. Officials from the Commonwealth Office of Technology—the commissioner and the executive director of the Office of Infrastructure Services—responded to the report. The committee discussed the report and adopted it and its recommendations.

The October meeting was a joint meeting with the Interim Joint Committee on Health and Welfare. Program Review staff presented phase two of the report *Kentucky Can Improve the Coordination of Protective Services for Elderly and Other Vulnerable Adults*. (Phase one of the report was approved by the Program Review and Investigations Committee in December 2003.) The commissioner of the Department for Community Based Services in the Cabinet for Health and Family Services and an executive director from the Justice and Public Safety Cabinet responded to the report.

At the November meeting, staff presented a review of the report *Kentucky Can Improve the Coordination of Protective Services for Elderly and Other Vulnerable Adults*. The committee discussed the report and adopted it and its recommendations. As part of a briefing on the Support Education Excellence in Kentucky (SEEK) school funding formula, school officials and LRC staff testified before the committee. The superintendent of the Warren County School District spoke about students with limited

English proficiency. The superintendent of the Southgate School District and an LRC budget analyst spoke about the funding of salaries through the SEEK formula. The associate commissioner of the Office of District Support Services in the Department of Education responded to the previous speakers and updated committee members on the department's implementation of recommendations in the committee's 2002 report on SEEK.

Also at the November meeting, the committee approved five topics for study by staff for the 2005 Interim: 1) an analysis of teachers' salaries and local school districts' administrative costs and percentages of personnel in the classroom, 2) tracking and service of criminal warrants, 3) the effectiveness and cost of the Medicaid Management Information System and whether it can work better with Kentucky's All Schedule Prescription Electronic Reporting System, 4) outsourcing by state agencies and trends of outsourcing in other states, and 5) long-term planning for water and sewer facilities.

For the December meeting, officials from the Kentucky Department of Education are scheduled to provide an update on the department's implementation of the committee's 2003 report on the Commonwealth Accountability Testing System. Officials from the Council on Postsecondary Education and Kentucky State University are scheduled to provide an update on implementation of recommendations in the committee's 2003 report on postsecondary education in Kentucky.

REPORT OF THE 2004
TOBACCO SETTLEMENT AGREEMENT FUND
OVERSIGHT COMMITTEE

Sen. Vernie McGaha, Co-Chair
Rep. Roger Thomas, Co-Chair

Rep. Adrian Arnold	Sen. Dan Kelly
Rep. Carolyn Belcher	Rep. Thomas McKee
Sen. Charlie Borders	Sen. Joey Pendleton
Sen. David Boswell	Sen. Richie Sanders
Rep. James Comer	Rep. Tommy Turner

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

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2005 REGULAR SESSION OF THE
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, and the use of Tobacco Master Settlement Agreement money.

COMMITTEE ACTIVITY

Established for the first time in the 2003 Interim, the Tobacco Settlement Agreement Fund Oversight Committee held nine meetings during the 2004 Interim. The first meeting was conducted during the regular session in January with the first regular monthly meeting occurring in May, shortly after the sine die adjournment of the General Assembly. The committee continued to carry out the responsibility of (a) monitoring the expenditure of funds received under the Master Settlement Agreement (MSA), (b) receiving reports of the Agricultural Development Board from the Governor's Office of Agricultural Policy, and (c) overseeing the pattern of MSA fund usage in accordance with the requirements of the agreement.

As in the prior interim, the Committee continued to monitor project decisions made by the Agricultural Development Board to approve or disapprove tobacco settlement fund grants and loans, to exercise the committee's general oversight duties, to receive reports from agencies that receive MSA funds, and to consider other tobacco industry-related reports.

At each monthly meeting, the committee received a report from the Governor's Office of Agricultural Policy. This report contained a review of projects acted on by the Agricultural Development Board. Each monthly report accounted for monthly applications for agricultural diversification project funding. The Governor's Office of Agricultural Policy provided details on each project, including how much money each applicant requested from the state account or the county accounts and the Agricultural Development Board's decision for each application.

State-funded projects included business ventures such as a factory that uses wheat to manufacture glue, a ham processing facility, and a salsa maker. The committee also reviewed county model projects approved by the board for agricultural improvement and diversification.

In one meeting, members received detailed information regarding changes in model programs and the status of three cooperative production and marketing entities that had experienced problems. In the November meeting, the committee learned about a new Agricultural Development Board farmers' market competitive grant program, agri-tourism competitive awards program, and a new policy regarding advanced agriculture endeavors. In December, the committee received a status report from the Agriculture Development Board. Discussion about the impact of the federal tobacco buyout program on Phase I and Phase II continued during the December meeting.

The committee continued to oversee the expenditure and use of MSA funds, the allocation of funds, and the merit of the expenditures. Of concern was whether tobacco-impacted counties received approval for projects benefiting their areas. The committee received additional information on various programs and how they operate. One area of interest continues to be how tobacco settlement funds should be utilized for maximum efficiency. Questions were raised about accountability of funds after disbursal, the scope and activity of assorted model programs, and the advisability of granting funds for services duplicated by other entities.

In a January meeting, committee members expressed concerns about the status of $17 million transferred from Kentucky Agriculture Finance Corporation as a part of budget-balancing efforts and urged the expeditious return of those funds. In June, the committee received an extensive budget briefing from officials with the Governor's Office of Agricultural Policy.

Reports Received

Along with the monthly flow of information about project applications, the committee also received reports from administrators of programs that received tobacco settlement funds directly via the state budget or through grants from the Agricultural Development Board.

Reports were received from the directors of programs funded by tobacco settlement funds through the Kentucky Health Care Improvement Fund. The committee received a report on the fund itself in addition to a report on the activities of the Health Care Improvement Authority. The committee received reports from Kentucky Access and the high-risk insurance pool. Status reports were received from the Kentucky Agency for Substance Abuse Program, the Tobacco Prevention and Cessation Program, and the Kentucky Lung Cancer Research Fund.

The committee received a report on the Early Childhood Development Fund and the wide range of programs under that fund. The Early Childhood Development Fund received 25 percent of the Phase I Master Settlement Agreement distribution, or about $27 million in FY 2004. A report was received from the Soil Erosion and Water Quality Cost Share Program and the Soil Stewardship Program. The panel also received reports from the Purchase of Agricultural Conservation Easement program and the Lexington-

Fayette County Purchase of Development Rights program, both of which benefited from a bond issue backed by tobacco settlement funds.

In addition to reports from funded agencies, the committee received testimony regarding federal legislation affecting the tobacco industry, specifically congressional passage of a tobacco quota buyout measure. The committee discussed the buyout at length during the October meeting, shortly after Congress passed the legislation. Those testifying reviewed the provisions of the buyout and described the impact of the buyout on individual quota owners and growers. The committee also received testimony on implications of the buyout on the future of tobacco in Kentucky and on the National Tobacco Grower Settlement Trust Agreement (Phase II) payments.

The committee received a report during the Interim on a series of amendments to the Phase II agreement. An assistant attorney general told the committee that the amendment language addressed some ambiguity that existed in the original agreement. A remaining issue was the status of final Phase II payments in the event of a tobacco quota buyout. The committee also heard a status report on the affiliation of the Kentucky Agricultural Finance Corporation with the Governor's Office of Agricultural Policy.

Review of Products

The committee served as a forum for citizens to express their concerns about the Agricultural Development Board's approval of a forgivable loan to a large company for the construction of a swine breeding facility in south-central Kentucky. Witnesses contended swine producers could serve the market and that the loan gave the multinational company a competitive advantage over local producers. The committee learned from the discussion that the panel must take action on an Agricultural Development Board decision in a subsequent meeting, but session work prevented the committee from taking action. The presiding chair indicated the statutory language should be reviewed for possible legislation in the 2005 Regular Session of the General Assembly.