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

2008

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and the
2009 Regular Session of the
Kentucky General Assembly

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Foreword

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

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

During the 2008 Interim, all 14 interim joint committees held meetings. No special committees met in 2008. All eight statutory committees met during the 2008 Interim.

LRC provides this informational booklet as a summary of the activity of the interim joint, special, and statutory committees since adjournment of the 2008 General Assembly. The reports were prepared separately by the committee staff.

Robert Sherman
Director

Legislative Research Commission
Frankfort, Kentucky
December 2008

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Report of the 2008
Interim Joint Committee on Agriculture and Natural Resources

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

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

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

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

Subcommittee on Rural Issues

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

Sen. Tom Jensen, ex officio
Sen. Robert J. Leeper
Sen. Richie Sanders, Jr.
Rep. John A. Arnold, Jr.
Rep. Johnny Bell
Rep. Dwight D. Butler
Rep. Mike Cherry
Rep. James Comer, Jr.
Rep. C.B. Embry, Jr.
Rep. James Gooch, Jr., ex officio
Rep. Jeff Greer
Rep. Jimmy Higdon
Rep. Tom McKee, ex officio
Rep. Fred Nesler
Rep. Marie L. Rader
Rep. Rick W. Rand
Rep. Steven Rudy
Rep. Dottie Sims
Rep. Tommy Turner

Subcommittee on Horse Farming

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

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

Subcommittee on Natural Resources

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

Sen. David E. Boswell
Sen. Tom Jensen, ex officio
Sen. Dan Kelly
Sen. J. Dorsey Ridley
Sen. Brandon Smith
Rep. Scott Alexander
Rep. Hubert Collins
Rep. Tim Couch
Rep. James Gooch, Jr., ex officio
Rep. Tom McKee, ex officio
Rep. Reginald K. Meeks
Rep. Tim Moore
Rep. Tanya Pullin
Rep. Jim Stewart III
Rep. Greg Stumbo
Rep. Robin L. Webb

Interim Joint Committee on Agriculture and Natural Resources

Jurisdiction: Matters pertaining to crops, livestock, poultry, and their marketing, disease control, and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; State Fair; county fairs; water pollution; air pollution; management of waste; protection of the environment; noise pollution; forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas, and salt water wells; state and national parks; Environmental and Public Protection Cabinet; all matters not specifically assigned to another committee relating to administrative, regulatory, or operating issues which, because of their smaller size, uniquely impact small business.

Committee Activity

The Interim Joint Committee on Agriculture and Natural Resources held six meetings during the 2008 Interim and plans a seventh meeting in December. The agenda for the December meeting has not been set. The Natural Resources Subcommittee, the Horse Farming Subcommittee, and the Rural Issues Subcommittee were reauthorized from the 2007 Interim.

There were three sets of topics during the 2008 Interim. The first set of topics continued to be associated with the energy crisis, and much of the testimony focused exclusively on liquid fuels. In June, the committee received testimony on rising gasoline prices, which rose dramatically across the nation. According to testimony from the Center for Applied Energy Research), the price increase was a response to increasing demand, a depreciating dollar, speculation, and refinery outages. In March and April of 2008, gasoline prices averaged $3.20 per gallon but rose to more than $4 by early June. The nation and the state braced for shrinking disposable household incomes and the rising cost of household durable and nondurable goods. Representatives from the Center for Applied Energy Research focused on the long-term demand for energy coupled with declining surplus and non-OPEC oil production as the predominant influences on price.

As a corollary to the gasoline price problems, many of Kentucky's small retailers experienced problems with their fuel dispensers because of their inability to register prices above $3.99. This problem was common across the nation, and many states responded by allowing dispensers to register a half-price for the gasoline or fuel purchased. The Kentucky Department of Agriculture issued an emergency regulation to allow for half-pricing, and the committee continued to review the status of upgrades to the retail gasoline dispensers in June, July, and August.

The committee examined ways to break the nation's dependence on foreign energy sources by evaluating the potential for Kentucky's top energy resource: coal. In July, representatives from the Energy and Environment Cabinet provided an update on the Kentucky coal industry, including the supply of coal and future markets for coal. In explaining the executive order that reorganized the former Environmental and Public Protection Cabinet into

the Energy and Environment Cabinet, the cabinet Secretary explained the importance of elevating energy to one of the core missions of the cabinet.

One response to the national energy crisis has been to examine the value of developing a coal-to-liquids (CTL) industry as an alternative to petroleum-based liquid fuels. In 2007, Kentucky passed a series of economic and tax incentives to encourage the development of CTL facilities in the state. In June, representatives from Kentucky Fuel Associates discussed a potential CTL facility in Muhlenberg County with the potential to use 2,000 tons of coal per day and produce 70 million gallons of diesel fuel.

Several ancillary debates evolved out of the focus on the current energy crisis. The first was the impact of carbon constraints. According to representatives of Kentucky's investor-owned utilities and electric cooperatives, federal legislation to reduce carbon emissions could increase household energy bills for Kentucky residents. The reason carbon taxes adversely impact Kentucky is that Kentucky ranks 12th in the production of carbon dioxide because of the dependence on coal-fired electric generation. The way to breaking dependence in this context includes investment in research and development as well as development of new technologies to capture and sequester carbon emissions. The energy crisis is not just a liquid fuel crisis. It involves a review of all types of energy and the costs associated with using them.

Another discussion was the interdependence between energy and different sectors of the national economy, such as agriculture. This interdependence is borne of the development of the alternative fuels as a way to reduce the nation's dependence on foreign petroleum. In September, one researcher with the University of Kentucky explained that food prices are impacted by the price of grain, but transportation and international demand are equally if not more important. One constant grain price motivator continues to be escalating fuel costs.

Higher fuel costs not only impact the input prices for retail food prices but are also the impetus to develop alternative fuel crops such as switch grass and canola. UK researchers discussed the importance of federal 2008 Farm Bill funding for the development of an alternative fuel industry. However, grain diverted for the production of ethanol raises grain prices, which hurts livestock producers.

A second set of topics focused on specific problems that require regionalized solutions. Examples of those topics include regulatory controls to identify and reduce contamination of agricultural produce, methods to improve the pricing environment for the dairy industry, and reasonable regulation for animal agriculture. In June, Kentucky became one of many states across the nation impacted by a salmonella outbreak that led to the recall of tomatoes and jalapeno peppers. The Kentucky Department for Public Health reported that the United States Food and Drug Administration issued a nationwide recall after 167 salmonella poisonings were reported in 17 states. A Good Agricultural Practices program that teaches best management practices has been instituted to minimize the sale of contaminated produce.

The animal agriculture and dairy industry expressed frustration with the current market environment for their products. Representatives from various livestock commodity groups described the impact of animal rights initiatives on the production of livestock. Reasonable

regulation for the general health and safety of livestock is necessary, but the sector fears that animal rights concerns could go too far and hinder the economics of the industry. The dairy industry likewise expressed frustration with the market relationships that govern the price of milk. Federal milk marketing orders allow for over-order premiums that reimburse the freight to truck milk into Kentucky, putting local producers as a competitive disadvantage. Representatives from milk producers and milk manufacturers expressed alternative views on how to improve market dynamics for milk producers. Producers argued in favor of a milk price regulation regime that would preserve a higher-than-minimum floor price for milk if the federal price was lower than necessary to sustain producers. Manufacturers argued that such a system would harm industry competitiveness by closing access to cheaper products that they can then sell nationwide. If the higher input price makes manufactured milk products more costly and manufacturers then decide not to buy locally, that could further reduce demand for Kentucky milk and put local dairies out of business.

A third set of topics reflects a multiplicity of state-level concerns such as farm safety, agriculture tourism, and forest management. At the August meeting, the committee received the annual update on the Kentucky State Fair board's activities, and the Kentucky Department of Agriculture reported on the Kentucky "Farms Are Fun" program. The program identifies various agritourism venues around the state as a way to develop new crops and marketing opportunities in the post-tobacco buyout period. Agritourism is a $2 billion industry, and Farms Are Fun is another way to market Kentucky's agricultural products to the broader community. In September, at the University of Kentucky's Agricultural Roundup, outdoor farm safety demonstrations illustrated some of the tools and methods for preventing injury and death.

In October, representatives from the Kentucky Woodland Owners Association discussed the importance of the forest industry and ways to improve the industry in Kentucky. They argued that Kentucky needs additional "Bad Actor" reforms in the forestry laws. Currently, state law does not allow the Division of Forestry to issue a cease and desist order if the forester has violated the law and refuses to pay penalties. Also, it is difficult to identify assets and successfully prosecute violators for civil fines; there are no criminal penalties.

Administrative Regulations

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

As of October 21, 2008, the committee had received 57 administrative regulations. This does not reflect regulations that may be referred to the committee in December. Administrative regulations received by the committee pertained to programs in the Department of Agriculture, the Department of Fish and Wildlife Resources, and the Divisions of Air Quality and Waste Management within the Environmental and Public Protection Cabinet.

The committee placed all administrative regulations on the agenda. The committee took separate committee action on one administrative regulation, 301 KAR 2:132, which was deferred from October until November. All other administrative regulations were deemed approved.

Prefiled Bills Referred to the Committee

The committee received no prefiled bills for the 2009 Regular Session.

Legislative Proposals Received From State Agencies

Several legislative proposals were received in both the full committee and the three subcommittees. Each proposal is identified below.

Kentucky Corn Growers Association

- Allow 150 miles of haulage of farm products in-state without requiring the driver to have a commercial driver's license.
- Increase the limit on the grain indemnity fund.

Kentucky Soybean Association

- Prevent restrictions on the use of crate barns, gestation stalls, and other aspects of factory farming that are reasonable and necessary.

Dairy Development Council

- Establish a dairy commission that would examine the price of milk paid to producers and make recommendations for policy to the General Assembly.

Kentucky Horse Council

- Change the agister's lien law in Kentucky to allow a person boarding another's horse to seize and sell the animal within a shorter time span than now allowed if the animal is left unclaimed by the owner.
- Require an agency study to gather data regarding the number of horses in Kentucky that are at risk.

Horse Farming

- Shift a portion of funds generated by the pari-mutuel tax into a revolving account to be used by the Kentucky Horse Racing Commission for its operations.

Kentucky Department of Fish and Wildlife Resources (Tourism, Arts and Heritage Cabinet)

- Provide tax credits for conservation easements and public access on private lands.
- Allow POPS-certified conservation officers assigned to law enforcement to receive the annual training stipend as part of the Kentucky Law Enforcement Foundation Program Fund.
- Provide probable cause provision for boating under the influence (BUI) that would allow conservation officers to inspect, enhance, and restructure penalties for BUI.

- Enhance penalties for hunting on private land without permission.
- Extend the mandatory boater education program to include all boaters.
- Allow the department to provide administrative support to the Kentucky Fish and Wildlife Education Foundation.
- Establish a short-term pay lake fishing license to parallel the hunting license on private shooting preserves.

Kentucky Office of Mine Safety and Licensing

- Make a technical correction to discrepancies in statutes regarding use of apprentice electrician for work in deep mines.

Kentucky Division of Mine Permits

- Raise the fee on surface mine permits to bear reasonable cost of producing the permit by increasing the per-acre fee and the per-ton charge.

Kentucky Division of Forestry (Energy and Environment Cabinet)

- Amend the forestry laws to allow the division to impose a cease and desist order if the forestry operation does not pay fines and penalties.
- Amend KRS 149.380 to define "wild land arson" and amend arson in the 3rd degree to include wild land arson.
- Hold gross negligence and wanton behavior to the same standard as intentional acts of arson.
- Amend the definition of "firewood" to prevent exemption of industries that use wood or biomass in industrial production from requirements for best management practices and use of a master logger.

Kentucky Department of Environmental Protection (Energy and Environment Cabinet)

- Approve reorganization orders that separate the former Environmental and Public Protection Cabinet into three cabinets—Labor, Energy and Environment, and Public Protection.
- Expand use of Environmental Trust Fund (ETF) to allow use of funds for environmentally beneficial projects.
- Allow companies to alleviate enforcement by paying fees into the ETF.

Division of Water (Energy and Environment Cabinet)

- Authorize a fee for functions performed by the Division of Water under KRS Chapter 151.

Kentucky Coal Association

- Abolish some mine operation requirements that were duplicative of Mine Safety and Health Administration requirements, including roof control plans, mine seal construction plans, and electrical inspections.

- Create some exceptions to recent changes in mine safety law that may disproportionately impact small coal operators, including the requirement of two medical emergency technicians to be onsite at an underground mine, the requirement that the mine fan be in continuous operation, and the increased retraining requirement for mine foremen.
- Create a "behavior modification" program to provide on-the-job-safety training to improve safe mining practices.

Reports Received

Several reports were received by the committee:

Agricultural Warehousing Sites Cleanup Fund Annual Report.

Auditor of Public Accounts: Examination of the Kentucky Agricultural Development Board—Allied Food Marketers West, Inc.

Auditor of Public Accounts: Independent Accountant's Report of the Rural Development Fund for FY 2006.

Auditor of Public Accounts: Independent Accountant's Report of the Rural Development Fund for FY 2007.

Auditor of Public Accounts: Report of the Audit of the Kentucky River Authority for FY 2007.

Auditor of Public Accounts: Report of the Special Purpose Forms (Closing Package) of the Kentucky River Authority for FY 2007.

Auditor of Public Accounts: Report of the Audit of the Kentucky Department of Agriculture Spay and Neuter Program for FY 2008.

Environmental and Public Protection Cabinet. Division of Waste Management: FY 2007 Kentucky Recycling and Marketing Assistance (KRMA) Report. Submitted January 3, 2008.

Kentucky Department of Agriculture: Office of State Veterinarian's Report on the Cervid Chronic Wasting Disease Surveillance Identification Program.

Kentucky Department of Fish and Wildlife Resources: The Status of CWD and Other Diseases.

Kentucky Department of Fish and Wildlife Resources and Transportation Cabinet: Report examining options for reducing deer-vehicle collisions in the Commonwealth.

University of Kentucky: Kentucky Geological Survey, Annual Report for FY 2007.

University of Kentucky: Kentucky Interagency Groundwater Monitoring Network, FY 2008 Annual Report.

University of Kentucky: Kentucky Tobacco Research and Development Center, Annual Report for FY 2007.

University of Kentucky: Kentucky Tobacco Research and Development Center, Quarterly Report for April 1, 2008.

University of Kentucky: Kentucky Tobacco Research and Development Center, Quarterly Report July 1-September 30, 2008.

Subcommittee Activity

Subcommittee on Natural Resources

The Subcommittee on Natural Resources met in July and October of the 2008 Interim. At the June meeting, the subcommittee heard testimony from the Division of Water regarding the Storm Water Program and the Municipal Separate Storm Water System (MS4). Also at the July meeting, the subcommittee heard testimony from the Department of Environmental Protection's Division of Enforcement regarding the U.S. Environmental Protection Agency's combined sewer overflow communities that are located in Kentucky.

At the October meeting, the subcommittee received testimony from representatives of the Office of Mine Safety and Licensing, the Department of Natural Resources, the Kentucky Coal Association, and Consolidated Energy, Inc. regarding the changes in mine safety law made by House Bill 207 of the 2007 Regular Session.

At the time of the filing of this report, the subcommittee anticipates holding a November meeting, but an agenda for that meeting has not yet been set.

Subcommittee on Rural Issues

The Subcommittee on Rural Issues held two meetings through November, and two topics were discussed. In October, an agricultural economist and various agricultural lenders provided an overview of the impact of the banking crisis on agriculture. In November, the subcommittee examined the impact of future fertilizer prices. In December, the subcommittee will receive testimony from various agencies regarding legislative proposals for the 2009 Regular Session of the Kentucky General Assembly.

Subcommittee on Horse Farming

The Subcommittee on Horse Farming met five times during the 2008 Interim. At its first meeting, in June, the subcommittee heard a comprehensive update on preparations being made at the Kentucky Horse Park and in Lexington-Fayette County for the 2010 Alltech FEI World Equestrian Games. The report covered a summary of capital investments at the park, the site for the Games, and what people can expect to see when they visit the Games and the Lexington community in 2010.

The July subcommittee meeting included a presentation by members of the Kentucky Equine Education Project's Grassroots Committee that summarized the organization's initiatives and activities. The meeting also included representatives of the Kentucky Thoroughbred Farm Managers' Club that discussed that organization's involvement in various equine issues.

In October, the subcommittee heard three reports from officials with the Kentucky Horse Racing Commission. The reports covered the many horse racing issues before the commission in recent months, and several horse race medical issues, including introduction of the anabolic steroid ban. The reports also included an update on the financial standing of the Breeders' Incentive Program.

At its November meeting, the subcommittee heard a wide-ranging discussion of horse abandonment, abuse, and rescue issues in Kentucky featuring representatives of the Kentucky Horse Council and the Kentucky Equine Humane Center. The subcommittee also received an update from the Executive Director of the North American Racing Academy, who discussed progress made at the academy and plans for the future.

Report of the 2008
Interim Joint Committee on Appropriations and Revenue

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

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

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

Presented to the
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2009 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

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

Sen. Ernie Harris, Co-Chair
Rep. John Arnold, Co-Chair

Sen. David E. Boswell
Sen. Alice Forgy Kerr
Sen. Richie Sanders, Jr.
Rep. Larry Clark
Rep. Tim Firkins
Rep. Jimmy Higdon
Rep. Dennis Keene
Rep. Lonnie Napier
Rep. Marie Rader
Rep. Susan Westrom
Rep. Jim Gooch, Jr., nonvoting ex officio
Rep. Ruth Ann Palumbo, nonvoting ex officio
Rep. Robin Webb, nonvoting ex officio

LRC Staff: Perry Papka and Christina Lee

Budget Review Subcommittee on Education

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

Sen. Tim Shaughnessy
Sen. Ken Winters
Rep. Jon Draud
Rep. Derrick Graham
Rep. Melvin Henley
Rep. Mary Lou Marzian
Rep. Charles Miller
Rep. Rick G. Nelson
Rep. Carl Rollins
Rep. Tommy Turner
Rep. Robin Webb, nonvoting ex officio

LRC Staff: Linda Jacobs Ellis, Jonathan Lowe, and Matt Ellis

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

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

Sen. Julian M. Carroll
Sen. Elizabeth Tori
Sen. David L. Williams
Rep. Dwight Butler
Rep. Leslie Combs
Rep. Mike Denham
Rep. Tanya G. Pullin
Rep. Rick W. Rand
Rep. Charles L. Siler
Rep. Ron Weston
Rep. Thomas M. McKee, nonvoting ex officio
Rep. Robin Webb, nonvoting ex officio

LRC Staff: Kelly Dudley, Katherine Halloran, Debra Gabbard, Perry Papka, Frank Willey, Tom Willis, and Spring Emerson

Budget Review Subcommittee on
Human Resources

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

Sen. Julie Denton
Rep. Scott W. Brinkman
Rep. Bob M. DeWeese
Rep. Reginald K. Meeks
Rep. Darryl T. Owens
Rep. Kathy W. Stein
Rep. David Watkins
Rep. Tom Burch, nonvoting ex officio
Rep. Robin Webb, nonvoting ex officio

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

Budget Review Subcommittee on
Justice and Judiciary

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

Sen. Gerald A. Neal
Sen. Dan Seum
Rep. Johnny Bell
Rep. Ted Edmonds
Rep. Jim Glenn
Rep. John Tilley
Rep. John Vincent
Rep. Robin L. Webb
Rep. Brent Yonts
Rep. Kathy Stein, nonvoting ex officio

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

Budget Review Subcommittee on
Transportation

Sen. Robert Leeper, Co-Chair
Rep. Don Pasley, Co-Chair

Sen. Perry Clark
Sen. Brett Guthrie
Rep. Eddie Ballard
Rep. James R. Comer, Jr.
Rep. Danny R. Ford
Rep. W. Keith Hall
Rep. Richard Henderson
Rep. Fred Nesler
Rep. Arnold Simpson
Rep. Ancel Smith
Rep. Jim Wayne
Rep. Hubert Collins, nonvoting ex officio
Rep. Robin Webb, nonvoting ex officio

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

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

Interim Joint Committee on Appropriations and Revenue

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

Committee Activity

During the 2008 Interim, the Interim Joint Committee on Appropriations and Revenue held four meetings. The committee received testimony regarding a wide range of topics.

The Chairman of the Louisville Arena Authority updated the committee regarding the Louisville Arena Project. He detailed the history of the project and discussed the current status of the property, construction contracts, and financing.

The committee heard testimony concerning the implementation of the Energy Independence Act from House Bill 1 of the 2007 Second Extraordinary Session. The Commissioner of the Department of Financial Incentives provided the committee with an update of energy projects approved to date under HB 1. She discussed the project review process, as defined in statute, and the eligibility requirement for companies and projects. She discussed the different incentives available to companies meeting project requirements and provided a basic outline of the approval process and how it flows through the Department of Financial Incentives. She ended by discussing the six projects that have been given preliminary approval to participate in the Incentives for Energy Independence Act program.

A representative of the Kentucky Science and Technology Corporation provided an overview of the venture capital start-up program established under HB 1, stating that the intent of the Kentucky New Energy Venture Fund is to encourage the growth of new alternative and renewable energy companies. He said that the fund is managed by the corporation and administered by the Department for Commercialization and Innovation. The fund may be distributed through grants, investment, or matching funds. He provided a timeline for the fund, stating that the first award notifications were distributed on July 7, 2008. He stated that the prospective project areas of interest include biofuel, coal, wind/solar, and other renewable projects. He then gave a brief overview of the companies that have received awards from the fund.

The Secretary of the Energy and Environment Cabinet provided a general overview of the Carbon Management Report, briefly discussing the need for further investigation and decisions to be made regarding the legal issues surrounding carbon sequestration. He stated that issues such as legal liability and ownership of stored CO_2 need to be clarified. He discussed proposed carbon management legislation at the federal level. He also discussed the need to utilize multiple technologies in the sequestration of carbon and gave a brief overview of several

technologies for carbon management. He finally provided an update regarding the Center for Renewable Energy and Environmental Stewardship, stating that currently the cabinet is working on appointments to the board.

The Director of the Center for Applied Energy Research (CAER) and the Director of the Kentucky Geological Survey discussed the carbon sequestration project. The Director of CAER discussed various carbon capture and mitigation projects being developed by the center that were funded in HB 1 and how the funds are being used to leverage federal match money. He stated that the funds have enabled CAER to double the size of its biomass/biofuels laboratory. The center has begun a study in biological carbon capture, utilizing algae systems for scrubbing. He said that the algae system uses CO_2 as feedstock, and the byproduct can be converted to biodiesel. He discussed the CAER's post-combustion CO_2 capture pilot plant and various research projects. He also briefly discussed the Carbon Management Research Group, which is a state-CAER-industry consortium. This group will work to develop more energy and cost-effective technologies, develop guidelines for technology selection for specific sites, and provide firsthand experience in CO_2 capture.

The Director of the Kentucky Geological Survey discussed the CO_2 sequestration research project that was required by HB 1. He discussed the funding for the test project, including state and industry funding of $14.89 million. The test project will be located in Hancock County and will be 8300 feet deep. He detailed the various goals for the CO_2 sequestration project and provided an overview of the drilling program for the sequestration well. He briefly discussed the testing program and timeline and stated that the project should be completed sometime in 2012.

A representative of the Finance and Administration Cabinet discussed the implementation of the Kentucky Bluegrass Turns Green program provided for in HB 1. This program requires that the renovation or construction of any public buildings for which 50 percent or more of the total cost will be paid by the state must be designed, constructed, or renovated to meet high-performance building standards. Also, high-performance buildings are to be given preference in leasing by the state. He discussed the qualifications for these buildings and the importance of green building construction. He explained the grant fund and the private-sector loan funds and stated that the cabinet is currently drafting administrative regulations to outline the application process.

The President of the University of Kentucky discussed the progress being made toward the university becoming a top-20 research institution by 2020. He discussed the re-calibration of the university's business plan to include the number of master's degrees awarded, professional doctorates, and faculty publications. With this re-calibration, the university ranks 36th out of 92 public research universities. He also discussed various efficiency efforts being undertaken by the university, including changing the administrative structure, outsourcing office supply contracts, and removing phones from residence halls. The President discussed the university's undergraduate program, emphasizing the importance of increasing ACT/SAT scores in the state. He stated that top 20 university SAT scores average 1,248, while the university's average is 1,096, and the statewide average is 990. The President discussed the importance in increasing undergraduate enrollment and retention. The retention rate for undergraduates is 92 percent in

the 20th-ranked university and is currently 81 percent for the University of Kentucky. He stated that the undergraduate enrollment at the university is 18,995, but the average enrollment for top-20 universities is 27,261. He also said that the university now awards 3,775 bachelor's degrees, but undergraduate degrees awarded at top-20 institutions average 6,299. He discussed the need to increase faculty at the university, noting that the university now has 1,998 positions; 71 positions have been eliminated due to budget constraints. The average number of faculty for a top-20 university is 2,724. The elimination of those 71 faculty positions represented a loss of $10.6 million in external research funding for the university. Finally, the President discussed the level of state financial support needed for the university to reach the goal of becoming a top-20 university. He stated that the university needs an increase in state funding of 5.8 percent between 2006 and 2012 and 3.5 percent thereafter to reach its top-20 goal.

The committee heard testimony from the Executive Director of the Kentucky Coal Association regarding the status of the state's coal industry. He discussed current coal prices, production, and employment statistics. He stated that coal production is up by 2.9 percent in east Kentucky and by 4.5 percent in the western part of the state. He discussed the economic impact coal mining has on the state economy, creating more than 18,000 jobs and $355 million in direct wages. The Director then discussed mine safety and coal permitting issues.

The acting State Budget Director provided the committee with a quarterly economic and revenue report, discussed the revision of the enacted revenue forecast for FY 2009 by the Consensus Forecasting Group (CFG), and detailed budget reduction planning being done by the state. He discussed the less-than-expected individual income tax, sales tax, and corporate income tax revenues for the first quarter of FY 2009, stating that estimates of expected FY 2009 revenues are down $293.6 million from the current CFG estimate. The Director discussed the estimates for the FY 2009 Road Fund, stating the revised estimate is a decrease of $70.6 million in revenues from the current CFG estimate. He outlined current national statistics as compared to Kentucky specifics, including personal income and nonfarm employment. He stated that national sources indicate that much of the country, including Kentucky, is now in a recession.

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

Subcommittee Activity

Budget Review Subcommittees

The Interim Joint Committee on Appropriations and Revenue is organized into six budget review subcommittees. Their purpose is to review revisions to the enacted budget, to monitor the budgetary operations and programs of state government, and to address agency budget needs for the 2008-2010 biennium.

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

The Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection met in Frankfort on Aug. 28, 2008, and Nov. 13, 2008.

The Secretary of the Tourism, Arts and Heritage Cabinet presented information regarding efforts to showcase Kentucky wineries. The Secretary commented that wineries are featured on the cabinet's Website and that they are part of broader efforts to increase tourism within the state. The Secretary discussed guest accommodations for the 2010 Alltech FEI World Equestrian Games, noting that the hotel previously planned for the Kentucky Horse Park had been postponed, but that adequate accommodations will be available. The Secretary also discussed occupancy rates and efforts to attract visitors to Kentucky State Parks, noting that occupancy at state parks was up 4.6 percent from 2007 and that coupons had been issued for off-season stays during the period spanning September through December. The Secretary briefly mentioned the mission of the Kentucky Sports Authority.

The Secretary of the Energy and Environment Cabinet presented information regarding the recent reorganization of the cabinet and the inclusion therein of the Public Service Commission and the former Governor's Office of Energy Policy. The Secretary provided a broad outline of the soon-to-be released Energy Plan for Kentucky, indicating that the plan will address energy efficiency opportunities, renewable energy sources, coal-to-liquid technologies, carbon management for coal plants, and opportunities to increase base-load electricity production.

Budget Review Subcommittee on Education

The Budget Review Subcommittee on Education did not meet during the 2008 Interim.

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

The Budget Review Subcommittee on General Government, Finance, and Public Protection held one meeting during the 2008 Interim.

The Commissioner of the Kentucky Department of Veterans' Affairs provided an update on the activities and budget situation for the agency. The agency advised the subcommittee of serious concerns about the financial situation and the service reductions that have taken place and that might occur before the end of the fiscal year.

The agency received a 4.5 percent budget reduction in FY 2009 due to the efficiency measures mandated by the General Assembly as part of the enacted 2008-2010 biennial budget. As a result, the agency has not been able to fill vacant positions. Of particular importance is the loss of three field representatives. Field representatives assist veterans in filing for Veterans Administration benefits, and the agency feels that many veterans will not apply for benefits

either because they are unaware of what is provided or because they do not have appropriate assistance in completing necessary documents.

The agency has increased the maximum resident charge at nursing homes, has eliminated daycare services for staff at the nursing homes, and has reduced travel and operating costs. These changes, along with not filling some vacant positions, will still leave a budget shortfall in excess of $300,000.

The agency commented on the recent opening of the new Veterans' Cemetery and the number of burials that are taking place. In addition, there was discussion of the waiting lists at the Veterans' Nursing Homes and where Kentucky stands in obtaining federal funds for expansion of these homes. The subcommittee voted to prepare a resolution for submission to the United States Department of Veterans' Affairs, after approval by the General Assembly in the upcoming session, encouraging that agency to release funds for these improvements.

Budget Review Subcommittee on Human Resources

The Budget Review Subcommittee on Human Resources did not meet during the 2008 Interim.

Budget Review Subcommittee on Justice and Judiciary

The Budget Review Subcommittee on Justice and Judiciary held one meeting during the 2008 Interim.

The Secretary of the Justice and Public Safety Cabinet updated the committee on recommendations from the Criminal Justice Council regarding penal code reform and controlling costs within the Department of Corrections. The Commissioner of Corrections spoke to the committee about the correctional education program that is provided by the Kentucky Community and Technical College System. The presentation detailed the inadequacies of the services provided to the inmates. The subcommittee then heard a presentation from the Commissioner of the Department of Juvenile Justice relating to the status of the reopening of the Laurel County Regional Juvenile Detention Center and the possible expansion of the Owensboro Treatment Center.

Budget Review Subcommittee on Transportation

The Budget Review Subcommittee on Transportation did not meet during the 2008 Interim.

Report of the 2008
Interim Joint Committee on Banking and Insurance

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

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

LRC Staff: Rhonda Franklin, Chad Collins, and Jamie Griffin

Presented to the
Legislative Research Commission
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2009 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 five times during the 2008 Interim.

The Secretary of the Public Protection Cabinet addressed the Governor's reorganization of the Environmental and Public Protection Cabinet. The newly created Public Protection Cabinet includes the Board of Claims and Crime Victims' Compensation; Department of Insurance; Kentucky Boxing and Wrestling Authority; Department of Charitable Gaming; Department of Financial Institutions; and Department of Housing, Buildings and Construction. The State Risk and Insurance Division, which oversees the insuring of state property, was transferred from the Department of Insurance to the Finance and Administration Cabinet, and the Mine and Subsistence Fund was removed from the State Risk and Insurance Division to the Department of Insurance.

The Commissioner of the Department of Insurance updated the committee on the ICARE program and the Long-Term Care Partnership Act. As a pilot program, ICARE started slowly but has begun to grow. She briefly discussed the Long-Term Care Partnership Program, enacted by 2008 RS HB 259, which provides incentives for individuals to obtain long-term care insurance via a dollar-for-dollar credit against the Medicaid spend-down requirements. The Department of Insurance is working with the Department of Medicaid Services to work out the details of the program to obtain necessary approval from the Centers for Medicare and Medicaid Services.

The Deputy Secretary of the Personnel Cabinet and the Personnel Cabinet's Commissioner of the Department of Employee Insurance discussed the Kentucky Public Employee Health insurance plan for 2009. The Deputy Secretary addressed the challenges faced by the cabinet in developing the plan for 2009 and stated that open enrollment was extended but that online enrollment had been successful. The Commissioner covered highlights of the basic plan alternatives, pointed out that pharmacy co-pays were returned to the 2006 rates, and explained the need for and development of a wellness program for state employees. The Executive Director of the Foundation for a Healthy Kentucky addressed initiatives of the foundation and plans for a health issues poll to be conducted in the fall of 2009.

The nation's financial problems prompted multiple meetings relating to Kentucky's current economic status. In July, the Commissioner of the Department of Financial Institutions reported on the status of home foreclosures in the state. He cited the most recent RealtyTrac data that indicated that during the second quarter of 2008 Kentucky had 1,834 foreclosure filings, or a 15.93 percent increase over the first quarter of 2008. He stated that Kentucky ranked 42nd in the nation in the rate of foreclosures per number of households. In September, the Finance Director for the Administrative Office of the Courts (AOC) presented data maintained by the courts regarding foreclosures. He explained that foreclosure filing data is not maintained by the courts. When a foreclosure judgment has been entered and the property is scheduled for sale, the master commissioner receives a fee, a portion of which is transmitted to AOC. AOC maintains a record of all master commissioner fees received. The AOC Finance Director presented the number of fees received by county for the first and second quarter of 2008. As of June 30, 2008, there were 4,357 fees received by master commissioners to schedule foreclosure sales, compared to 4,161 for the same period in 2007.

The Chief Economist and Group Director of the American Bankers Association addressing the global issues affecting banking and the current national housing forecast. He reported that the states with the largest housing foreclosure problems today are the states that experienced the greatest housing appreciation between 2002 and 2006, which include California, Florida, and the mid-Atlantic states. He stated that Kentucky has performed better than the national average due to fewer subprime loan and fewer adjustable rate mortgages.

The committee obtained homeownership protection data from the acting CEO of the Kentucky Housing Corporation (KHC) and the Senior Director of Home Ownership for KHC. The CEO stated that 2008 RS HB 552 established the Home Ownership Protection Center, which is administered by KHC from existing KHC discretionary funds. The program provides counseling by trained counselors regarding foreclosure and loss mitigation for Kentucky residents experiencing financial difficulties and those in danger of losing their homes to foreclosure. Through Nov. 18, 2008, KHC received 1,213 contacts to the Home Ownership Protection Center. Of those contacts, only one executed a deed-in-lieu of foreclosure and five resulted in foreclosure. The balance of the calls resulted in counseling assistance, repayment plans, forbearance agreements, bankruptcy filings, mortgages brought current or various other positive outcomes.

The President and CEO of the Kentucky Bankers Association (KBA), a professor of economics from the University of Kentucky, and one from the University of Louisville updated the committee on Kentucky's economic climate in November. The KBA President reviewed the multitude of bank acquisitions and federal economic stimulus actions taken by Congress and various federal agencies. He reported that Kentucky's banks did not participate in many of the practices that were the downfall of other banks nationwide, including involvement in the subprime mortgage market, the adjustable rate mortgages, or investments in mortgage-backed securities. He stressed that Kentucky's community banks are strong and well capitalized in contrast to many national banks and banks in other states.

The UK professor addressed the performance of Kentucky banks compared to banks nationwide. He stated that the federal stimulus packages enacted in recent months were

unprecedented. He stated that Kentucky banks have experienced almost triple the national average of return on assets and return on investments. There also has been a lack of bank failures in Kentucky compared to other states. Despite starting at a disadvantage by having higher expenses and lower interest, Kentucky banks did not engage in subprime or exotic mortgages, which have resulted in a lower nonperforming loan ratio than most of the nation. He noted that Kentucky banks did not invest in mortgage-backed securities, which will bolster Kentucky banks as the economic climate deteriorates further nationally.

The UofL professor of economics addressed other economic factors influencing Kentucky's relative economic stability. Regarding housing, he related that while some states such as California had 40 percent annual housing inflation in recent years, the same states have had the greatest loss in home values in the last 4 to 5 quarters. At the same time, Kentucky experienced a lower rate in housing inflation and, therefore, a lower loss in home values. Concerning the foreclosure numbers in Kentucky, his research sources indicate that 50 percent of the foreclosures in Jefferson County were not homeowner occupied, but, instead, were investor properties. Regarding new housing, he reported a slowdown in new housing starts to one-half the number in 2005.

He also reported that job growth has ceased in Kentucky, with a negative one-half percent growth in jobs through September 2008. Kentucky's job growth slowed to 2 percent during the last decade, compared to a 2 percent annual growth in the 1990s. Citing a loss of 55,000 manufacturing jobs since the year 2000, he stated that the loss was largely due to automation. Further, he stated that retail jobs in 2008 are less than in 2000 and blamed the increase in self-service at retail outlets. He reported job growth in health care due to an aging and unhealthy population; professional and technical jobs with salaries averaging $70,000 or more annually; government jobs; finance jobs; and construction jobs involving remodeling, commercial, and industrial construction.

Report of the 2008
Interim Joint Committee on Economic Development and Tourism

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

Sen. Julian M. Carroll
Sen. Julie Denton
Sen. Brett Guthrie
Sen. Denise Harper Angel
Sen. Ray S. Jones II
Sen. Jerry P. Rhoads
Sen. Richie Sanders, Jr.
Sen. Katie Stine
Sen. Gary Tapp
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Rep. Tommy Thompson
Rep. Robin L. Webb
Rep. Alecia Webb-Edgington
Rep. Ron Weston
Rep. Addia Wuchner

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

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

Task Force on Economic Development

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

Sen. Julian M. Carroll
Sen. Julie Denton
Sen. Brett Guthrie
Sen. Denise Harper Angel
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LRC Staff: John Buckner, Karen Armstrong-Cummings, Louis Pierce, and Dawn Johnson

Interim Joint Committee on Economic Development and Tourism

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

Committee Activity

During the 2008 Interim, the committee held three meetings in Frankfort and three out-of-town meetings. The committee focused on a variety of economic development and tourism topics, including but not limited to the financial status of Kentucky's state parks system, the economic development potential of businesses engaging in alternative energy, urban tourism, Kentucky bourbon distilleries and their tourism potential, the importance of bourbon exports, adventure tourism and its economic importance to rural communities, the role of Kentucky's universities in promoting economic development, and small business development and possible changes to programs designed to assist small businesses.

At its June meeting in Frankfort, the Auditor of Public Accounts gave a review of the 2007 Financial Data Analysis of the Kentucky Department of Parks. She said that the report, which was based on the previous 8 years of data, finds that the parks system is struggling. Tourist activity is declining and net losses are growing in spite of hundreds of millions of dollars of investment in capital improvements in recent years. In 1995, a major bond issue of $316 million was appropriated to renovate and expand parks facilities. With a 14 percent increase in operating losses since 2000, the Department of Parks was forced to seek a $5 million supplemental appropriation this year to meet its obligations.

The Auditor said that the data indicate a declining trend in many areas, including room occupancy, rounds of golf sold, gift shop purchases, and dining receipts, with expenditures increasing at a higher rate than revenues. She said the final report calls for increased marketing and the development of a strategic plan to help counter these trends. In addition, the Auditor said the parks system will always need state funding and that it will never become fully self-sufficient. General fund support is now $31 million per year. Many parks that had either generated a profit or were close to breaking even have since operated at a decreased profit margin or at a loss. The number of occupied units at the resort parks decreased by more 12 percent and available units declined by 4 percent due to renovations. Revenue increased slightly due to higher rates. Approximately $55 million has been provided for golf-related projects since 1994; however, golf-related activity experienced its greatest loss, approximately

$700,000, in 2007. Although five new courses have been added to the system, golf activities have seen a steady decline since 2004.

As for dining receipts, the Auditor said that the total meals served decreased by 7 percent. During that time, the parks system moved from a profit of 3 cents per meal to an average loss of $1.60 per meal. At some parks the loss was as high as $6 or $7 per meal. Also, gift shops and grocery revenues decreased by nearly 24 percent, and net profits decreased 87 percent in 2007.

The report recommends that the cabinet use a small portion of the recently instituted 1 percent lodging tax as a funding source for marketing. The Auditor said that the parks are currently receiving a portion of the tax based on the number of rooms rented. A 2007 performance audit of the statewide lodging tax determined that the tax brought in approximately $7.5 million the first year, and the money was deposited into a restricted fund for the sole purpose of additional promotion of tourism in the Commonwealth. This amount represented a threefold increase in tourism marketing fund. This new funding was initially spent without adequate direction or performance measurements to monitor the effectiveness of the promotional efforts being funded. The report also recommended that the Department of Parks develop a comprehensive room rate structure based on market research and evaluate the pricing structure, marketing, and advertising of other activities, including golfing and dining, to maximize participation and economic benefit. The report also recommended that all existing vendor contracts be reviewed to determine if contract costs could be reduced or eliminated.

The Secretary of the Tourism, Arts and Heritage Cabinet and the Commissioner of Parks responded to the Auditor's report's analysis and recommendations. The Secretary said that it was a goal to develop thorough research and analysis on a comprehensive rate structure to maximize the economic impact of lodging, including package pricing and seasonal rates. The Commissioner said guidelines will be developed in an overall marketing strategy. All vendor contracts will be reviewed to reduce or eliminate costs.

The Secretary said the cabinet uses general fund money and funds from the statewide lodging tax collected at state parks to advertise park facilities and activities. In coal-producing counties containing state parks, coal severance tax money will be used to promote adventure tourism. The cabinet will create partnerships with public- and private-sector interests to expand marketing efforts and options for state parks. She said the cabinet is working in conjunction with several national parks to establish ways of promoting and encouraging travel between state and national parks.

The Secretary expressed concern that younger people do not know about Kentucky's state parks; therefore, a comprehensive public relations effort is being developed for that target audience.

The Secretary said that the cabinet will contract with an outside firm to conduct a thorough study of the state parks and recreation system to obtain an objective comparison to operations in other states as well as private resorts. Once the report is complete, the governor will appoint a task force to review the results and work with staff to construct a strategic plan.

The Commissioner of Parks noted that state parks only recently added amenities such as wireless Internet access, better cell phone services, and online reservations. The Commissioner said the new food services director is conducting a review of standard and banquet menus with park chefs. The review will ensure Kentucky standards are available across the state but will also allow chefs to be creative and offer local fare as well.

Over the past few years, several new golf courses were added, and expenses have risen dramatically. Maintenance costs of the "Signature Series" are approximately 50 percent higher than for the other courses.

The Commissioner also noted that the gift shops are lacking in both quality and quantity of merchandise and suffer a general lack of direction in operation. The department is currently working with the Kentucky Artisan Center to increase the number of Kentucky-made products offered in the gift shops.

The July meeting was held in Frankfort and focused on the economic development potential of alternative energy. The Chief Executive Officer of Wind Energy Corporation and the co-founder of Rayan Solutions gave a presentation on the development of wind energy. Wind Energy Corporation, headquartered in Elizabethtown, collaborates with Western Kentucky University and the University of Kansas Aeronautical Engineering Department to develop wind turbines for electric generation. The company has been in business for 18 months and has a production facility in Morgantown. The company has been selected as one of 20 finalists by the United States Department of Defense for alternative energy systems.

Wind Energy is projecting approximately 1,500 jobs in Morgantown by 2013. Additionally, there will be at least 100 high tech jobs, primarily in wind research. He said current Kentucky partners include Lexel in Lexington for generator production, creating approximately 100 manufacturing jobs; Ingram and Final Finish in Morgantown for the finishing; Gates Rubber in Elizabethtown for the belts and gearing; and Stamler Machine of Louisville and Clark Machine of Nicholasville for the steel structure of the turbine.

The Governor made an announcement on July 16 about leveraging low-energy costs to attract manufacturing plants for renewable energy. Low electricity costs make it cheaper to manufacture in-state. He encouraged continued research on carbon capturing and other technologies. He said Kentucky has an opportunity to be in the forefront in working with coal producers through research and development. The ZAP electric vehicle was given as an example.

The General Manager of ZAP Electric Autos said manufacturing ZAP vehicles in Kentucky would create many jobs. He said the vehicles are produce zero emissions and reduce the carbon footprint and fuel dependency. They reduce maintenance costs because there are no other moving parts other than the tires and a motor axle. He noted that these vehicles are designed to be second vehicles for consumers to be used on roads with speed limits of 45 miles per hour or less. Each ZAP vehicle weighs 2,100 pounds and is less damaging to roadways. Electricity is approximately $180 per year to charge the vehicle. There is an available solar panel for the sedan and truck. He also noted that the corporation plants 200 trees with the sale of each vehicle.

The August meeting of the committee was held at the Louisville Zoo and centered on tourism development. The meeting began with a brief presentation by the Louisville Metro Mayor's Office on the Center City project, which utilizes tax increment financing. According to the Mayor's Office, a developer is finalizing details of an approximately $200 million initial phase, with the completed project estimated to be $435 million. Louisville also hosted the 2008 Ryder Cup, with over 40,000 tickets sold for each day of the event.

The Director of the Louisville Zoo said the zoo has set attendance records in the past 2 years. It is exceeding the goals of its business plan through successful projects like Glacier Run, the Australia exhibit, and the train station. In 2007, the Splash Park debuted; in 2008, the Tiger Tundra opened; and future plans include the expansion of Glacier Run to include polar bears, seals, and sea lions, which is scheduled to open in 2010.

Approximately 100,000 students visit the zoo each yea, with approximately 10,000-15,000 students participating in formal education programs. The zoo also manages the Louisville Nature Center, which is a state nature preserve across from the zoo compound. Another educational project is "School at the Zoo," which targets 7th graders. Students spend a week at the zoo to learn scientific method. Approximately 80 percent of these students attend through corporate partner scholarships.

The President of the Kentucky Distillers' Association and the Deputy Commissioner of the Kentucky Department of Travel discussed some of the goals of the association. Formed in 1880 with headquarters in Frankfort, the association's mission is to promote, protect, and represent Kentucky's signature bourbon and distilling industry. Kentucky produces 95 percent of the world's bourbon. Production has doubled since 1999, moving from 455,078 barrels to 937,865 barrels produced in 2007. The economic impact on Kentucky has been more than 3,200 direct jobs and countless spin-off jobs that include everything from barrel making to retail sales. The bourbon industry has a $3 billion economic impact on Kentucky. It produces nearly $115 million in state and local taxes. Bourbon makers purchase 11 to 12 million bushels of grain each year. There have been several expansion projects at Kentucky distilleries, including Jim Beam's $70 million expansion of its visitor experience, Wild Turkey's investment of $36 million to double its distilling and warehouse operations, Heaven Hill's investment of $4 million to expand its Bernheim Distillery by 50 percent, and Maker's Mark's investment of $3 million to enhance its visitor experience. Total United States distilled spirits exports reached $1 billion in 2007, with the top export countries being the United Kingdom, Germany, Australia, France and Japan.

In 1999, the association created the Kentucky Bourbon Trail, which is patterned after California's wine country tours and Scotland's whisky trails. The Bourbon Trail currently includes seven distilleries: Jim Beam, Four Roses Distillery, Wild Turkey, Buffalo Trace Distillery, Heaven Hill Distilleries, Inc., Maker's Mark, and Woodford Reserve. Another member is expected soon. Visitor growth has been 10 to 15 percent each year, with an average of 330,000 to 500,000 visits per year. Publications such as the New York Times and Condé Nast Traveler have featured articles about the Bourbon Trail and distillery tours.

Many communities along the Kentucky Bourbon Trail are capitalizing on the opportunities that bourbon presents, such as the Kentucky Bourbon Festival in Bardstown, Anderson, Franklin Counties; the Wine and Spirits Circle Tour in Woodford County; and the Urban Bourbon Trail in Louisville. Lexington will soon introduce its "Bourbons of the Bluegrass" campaign and a restoration of the Distillery District near Rupp Arena. Tour companies, specialty foods shops, magazines, and restaurants are creating niche markets from the success of bourbon and the Bourbon Trail. The Department of Travel is including bourbon in its tourism marketing. In partnership with the association, the Department of Travel is overseeing "The Kentucky Experience" on the grounds of the 2010 Alltech FEI World Equestrian Games that will showcase Kentucky and its products.

The September meeting was held at Camp Webb in Grayson. The Commissioner of the Kentucky Department of Fish and Wildlife (KDFWR) explained that approximately $13 million per year of the department's funding comes from an excise tax on the sale of ammunition, guns, fishing equipment, and boats. Fish and wildlife activities have a state economic impact of approximately $4.7 billion annually. The mission of KDFWR is to conserve and enhance fish and wildlife resources and provide opportunities for wildlife-related activities. He said that adventure tourism would help KDFWR achieve its mission and strategic plan objectives by increasing multi-use access areas for recreational activities throughout the state. KDFWR has been the original adventure tourism agency for 96 years.

The greatest obstacle to outdoor recreation activities is overcoming limited access to private land. He noted that 94 percent of Kentucky's land and water are privately owned. One of the agency's goals is to increase land holdings by 10 percent within 50 miles of the "golden triangle" of Lexington, Covington, and Louisville within 6 years. Seventy-three percent of Kentucky's 75 wildlife management areas were purchased with Wildlife Restoration Funds paid for by the excise tax. He explained that there are usage restrictions on land purchased with federal funds. Many wildlife management areas are leased or under cooperative agreement with the Corp of Engineers and private coal and timber companies. He said KDFWR has the resources and actively pursues land purchasing and can help promote access to recreation areas. Language in Senate Bill 196 from the 2008 Regular Session allows KDFWR law enforcement rights on adventure tourism sites. One possibility is instituting a user pay system. He noted that the infrastructure already exists in collecting user fees. The department can also assist with technical guidance such as habitat formation and trail building. The department currently is working with the Kentucky Recreational Trails Authority to assist with promulgating regulations.

The 23-member Kentucky Recreational Trails Authority (KRTA) recently held its first meeting and will create separate working groups of members and grassroots organizations as well. KRTA is currently conducting an inventory of the state trail system and other adventure tourism activities. Per the requirements of SB 196, Morehead State University is conducting a study of the effects of trespassing on all-terrain vehicles (ATVs), which is to be submitted to the Legislative Research Commission by mid-December. KRTA is working on an adventure tourism master plan. A trail is in progress that will enable the majority of the state to be traveled by horseback, hiking, or biking in time for the 2010 Alltech FEI World Equestrian Games. KRTA would like to see the Cabinet for Economic Development and the Tourism, Arts and Heritage

Cabinet provide incentives to individuals who want to increase the economic engines of their communities through adventure tourism.

The Executive Director of the Kentucky Horse Council (KHC) and the chairperson of the Kentucky Recreational Trails Authority said the Kentucky Horse Council represents 3,000 to 4,000 members, 77 percent of whom are involved with trail riding. KHC is funded through the sale of the state's horse license plate and represents the nonrace portion of the horse industry. She said that although Kentucky is known for horse racing, only 25 to 30 percent of horses in Kentucky are used in racing. The main challenge of developing trail riding is the lack of access to public and private lands. There is also a need for good hospitality services. Riders look for horse camps, trail guides, on-sight services, catering, music, and entertainment, which are opportunities for new businesses. "Bed and barn" is a new business concept for agricultural farmers that is being developed.

Florida, Iowa, Pennsylvania, and Tennessee successful adventure tourism programs that Kentucky could study as it looks to develop its own program.

The President of the League of Kentucky Sportsmen explained that the group, which was created in 1935, is the oldest sportsman association in the state and was instrumental in developing legislation that created the Department of Fish and Wildlife. The possibility of gaining more access to private fishing waters and more hunting grounds is important. Minnesota and Wisconsin have highly successful programs similar to what Kentucky envisions. He said the League of Kentucky Sportsmen supports adventure tourism asks that sensitive wildlife areas be identified and protected.

The President of WMTH Corporation discussed how communities are using tourism to develop local economies. Knott County creating a countywide adventure tourism parks system, with more than 43,000 acres and 100 miles of horseback riding trails on reclaimed coal land. Currently, Knott County has four ATV trails, four horseback riding trails, a publicly accessible elk-viewing area, and a skate park. The county will construct a snow tubing and snowboarding area next year. Its ATV safety training center is one of only five in the United States. It includes basic safety as well as a skills test area with trails for beginner through advanced.

The Director of Adventure Tourism with the Tourism, Arts and Heritage Cabinet outlined the cabinet's activities in adventure tourism. It is creating an inventory promoting the existing trails in the state using GPS and GIS technology with the Office of Technology. The cabinet is working to promote and create new opportunities for all outdoor recreation activities. A master plan is being developed in coordination with existing inventory to create the optimal routes for a cross-Kentucky trail system that will take into consideration aspects such as the aesthetic quality of a trail, as well as the environmental and economical impacts to the state. The cabinet also is studying the effects of trespassing by ATVs on both private and forbidden public lands to determine the best ways to enforce current laws. The agency is also creating a universal signage program for the trail system and highways to direct tourists to trailheads and other outdoor recreation activities.

In October, the committee met jointly with the Interim Joint Committee on Labor and Industry at Bluegrass Station in Fayette County.

The Director of Bluegrass Station provided a brief overview of the facility, its mission, and its economic impact on central Kentucky. Built in the 1940s, the 13-building, 2.2 million square foot facility sits on 291 acres, with approximately 274 acres available for future usage. Formerly an army depot, the facility was turned over to the Commonwealth in 1994 and re-named Bluegrass Station. This year, the final deed relinquishing all buildings and land to the state will be recorded. The facility is self-funded by tenants and receives no state funds. Eighty percent of the facility is occupied by government agencies. Bluegrass Station leases to 27 commercial and eight residential tenants, with three anchor tenants that generate 80 percent of the revenue. The occupancy rate is 130 percent with Bluegrass Station leasing offsite space to meet demands. There are 2,040 tenant jobs with an annual payroll of $102 million. Bluegrass Station recently invested $11 million in new hangars. The original infrastructure is aging and must be replaced. State guaranteed infrastructure bonds of $4.4 million were issued for this purpose.

The President and Chief Executive Officer of Commerce Lexington, Inc., and the Vice President of UK's, Commercialization and Economic Development discussed the Bluegrass Business Development Partnership, which recently received an award for "Partnership of the Year" from the International Economic Development Council.

Although most economic development efforts previously were funded primarily by the private sector, in 2008, Lexington increased funding efforts dramatically. The partnership now is a one-stop source for business and financial plans, loan program and tax incentive information, funding source assistance, access to service providers (accountants, lawyers, marketing, public relations, and advertising), real estate information, mentoring, and university commercialization opportunities. For existing business retention and expansion, the partnership calls on 150 businesses annually to foster relationships and build trust. Sixty percent of the group's efforts are focused on entrepreneurial support. The partnership also focuses on business recruitment. Emphasis is placed on strategic economic development partnerships and marketing Blue Grass Business Park.

The Vice President also provided an overview of the process of intellectual property development. The university currently has 300 active patents in areas such as drug development and design, plant biotechnology, equine health, and medicine.

Venture capital is important in growing and keeping jobs in Kentucky. Venture capital firms in other states, particularly California and New York, seek potentially successful start-ups in Kentucky, invest millions, and then move them out of state. The University of Kentucky is actively involved in developing venture capital networks to keep successful start-ups in Kentucky.

The final meeting was held in Frankfort on November 20. The meeting centered on small-business development.

The Commissioner of the Department for Existing Business Development in the Cabinet for Economic Development gave an overview of the department. The primary focus of the department is to assist small businesses by providing customer-driven counseling and assistance that will contribute directly to economic growth and long-term viability. The department provides a variety of services, including "one-stop shopping" for permits and licenses needed by businesses. By providing this service, the department provides businesses access to all permitting and license applications at one location, information on any needed permits or licenses, and counseling and answers to questions about the applications.

The department also offers a micro-loan program, which is being operated through a contract with Community Ventures, Inc. The department received $300,000 for the program through appropriations, and Community Ventures was able to leverage that money to obtain an additional $1.5 million from the Small Business Administration. Micro-loans are offered to small businesses that have fewer than five employees and may be for a maximum of $35,000. The commissioner noted that this program is not yet available in all counties, but expansion is a goal.

The President of BJM and Associates, Inc. and President-elect of the Lexington chapter of the National Association of Women Business Owners discussed some of the problems faced by small businesses and that hinder recruitment of new businesses. Kentucky has high workers' compensation and tax rates. She said the alternative minimum tax is onerous and burdensome, particularly to new businesses that have yet to establish a consistent cash flow. Finally, she said that Kentucky is not a "right to work" state, which means that employees can be forced to join a union against their will.

She recommended a repeal of the alternative minimum tax, more incentives to help businesses, teaching students the importance of business skills, a repeal of prevailing wage laws, legislation that would make Kentucky a "right to work" state, a reduction in government spending and a freeze on hiring, using "just in time" temporary employees, and drug testing for welfare recipients. She also said that the state should stop competing with private businesses such as state-owned marinas competing with private docks and universities selling pizzas and delivering to dorm rooms. She said that the general rule should be that if a service is provided by a business, then it should not be by government.

The President of the Mountain Association of Community Economic Development spoke about the structure of the organization and some of its functions, which includes providing business counseling and loans to small businesses. To foster small-business development, he suggested that the role of the Commission on Small Business Advocacy be expanded, a study to examine underserved areas in Kentucky should be conducted, investment and entrepreneurial support should be expanded, and services by various agencies should be better coordinated.

Subcommittee Activity

Task Force on Economic Development

The Task Force on Economic Development did not meet during the 2008 Interim.

Report of the 2008
Interim Joint Committee on Education

Sen. Ken Winters, Co-Chair

Sen. Walter Blevins, Jr.
Sen. Charlie Borders
Sen. Brett Guthrie
Sen. Dan Kelly
Sen. Alice Forgy Kerr
Sen. Vernie McGaha
Sen. Gerald A. Neal
Sen. R.J. Palmer II
Sen. Tim Shaughnessy
Sen. Elizabeth Tori
Sen. Johnny Ray Turner
Sen. Jack Westwood
Sen. David L. Williams
Rep. Mike Cherry
Rep. Hubert Collins
Rep. Leslie Combs
Rep. Jim DeCesare
Rep. Milward Dedman, Jr.
Rep. Ted "Teddy" Edmonds
Rep. C.B. Embry, Jr.
Rep. Bill Farmer
Rep. Tim Firkins
Rep. Jim Glenn
Rep. Derrick Graham
Rep. Jeff Greer
Rep. Jimmy Higdon
Rep. Reginald K. Meeks
Rep. Charles Miller
Rep. Harry Moberly, Jr.
Rep. Russ Mobley
Rep. Rick G. Nelson
Rep. Marie Rader
Rep. Tom Riner
Rep. Carl Rollins II
Rep. Charles L. Siler
Rep. Dottie Sims
Rep. David Watkins
Rep. Alicia Webb-Edgington
Rep. Ron Weston
Rep. Addia Wuchner

LRC Staff: Audrey Carr, Janet Stevens, Ken Warlick, Sandy Deaton, Lisa Moore, and Janet Oliver

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

Subcommittee on Elementary and Secondary Education

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

Sen. Walter Blevins
Sen. Dan Kelly
Sen. Brett Guthrie
Sen. Tim Shaughnessy
Sen. Jack Westwood
Rep. Mike Cherry
Rep. Hubert Collins
Rep. Milward Dedman, Jr.
Rep. Jeff Greer
Rep. Jimmy Higdon
Rep. Harry Moberly, Jr.
Rep. Rick Nelson
Rep. Marie Rader
Rep. Dottie Sims
Rep. David Watkins
Rep. Alicia Webb-Edgington
Rep. Ron Weston

Sen. Ken Winters, ex officio

LRC Staff: Janet Stevens, Sandy Deaton, and Janet Oliver

Subcommittee on Postsecondary Education

Sen. Charlie Borders, Co-Chair
Rep. Carl Rollins II, Co-Chair

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

Sen. Ken Winters, ex officio

LRC Staff: Ken Warlick, Audrey Carr, and Lisa Moore

Interim Joint Committee on Education

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

Committee Activity

The Interim Joint Committee on Education met six times during the 2008 Interim. Four of the meetings were in Frankfort and two were site visits.

During its Frankfort meetings, the committee heard a series of program status reports relating to elementary, secondary, and postsecondary education. The Executive Director of Kentucky Educational Television (KET) described it as a model of public television collaboration with education systems to improve teachers' skills and students' learning. Ninety-seven percent of Kentucky schools use one or more of KET's services and programs that are aligned to Kentucky's academic standards. In KET surveys, teachers report that these resources are having a direct impact in raising student test scores. In addition, GED classes are widely subscribed.

He also noted that KET produces more than 900 hours of gavel-to-gavel coverage of Kentucky legislative sessions and committee meetings, which is considerably higher than public television coverage in nearby states.

The Executive Director expressed concern about decreased general fund revenues. The KET fiscal year 2009 operating budget of $15.5 million contains $13.2 million in general funds. Over the last 8 years, the general funds have been reduced by $4 million, and most recently were cut by $1.8 million. In addition, budget reductions through the Council on Postsecondary Education will result in the discontinuance of KET services to 4,100 adult students who have been taking college-credit courses via KET, beginning with the spring semester 2009. Revenue reductions also create problems in replacing retiring senior-level staff and finding money for necessary equipment and technology upgrades.

The committee heard from the Executive Vice President of the Kentucky Science and Technology Corporation (KSTC) who explained that AdvanceKentucky™ is a dynamic partnership designed to increase participation and accelerate advanced placement (AP) qualifying scores among Kentucky students. The program began in 2007 and is a 6-year partnership between KSTC and the National Math and Science Initiative (NMSI). She said the program provides math, science, and English incentives for teachers and students taking AP courses. She said other goals of the program include finding resources and networks to build capacity and sustain gains. Kentucky was one of 6 states from the 28 that applied to receive a grant. NMSI has committed $13.2 million to the program.

The committee heard testimony from the Executive Director of the Center for School Safety regarding findings from its annual report as required by KRS 158.442. The Executive Director stated that the goals of the center are supporting Kentucky educators as they protect Kentucky students; enhancing current cost-free services, while reviewing and improving existing programs; identifying and addressing school safety concerns, such as behavioral management issues and school climate and culture, which are key to enhancing academic achievement; addressing the drug and alcohol problem in Kentucky schools; and providing updates and training for handling school safety emergencies.

The Executive Director of the Kentucky Dataseam Initiative gave a status report to the committee. The Dataseam program places computers in schools in eastern Kentucky and is funded by coal severance money allocated during the 2006 and 2008 legislative sessions. He said there are also seven noncoal counties using their own Kentucky Educational Technology System (KETS) funds and other appropriated funds to participate in the project. Computers are linked through a grid to the University of Louisville's James Graham Brown Cancer Center, which allows the researchers to perform complex scientific formulas that shorten the drug discovery process.

Participating schools have received upgrades to student workstations. He explained that the school districts access the grid via the KETS network during school hours. Researchers access the same computers during night hours, thereby allowing 100 percent simultaneous research and student use of the system. The Executive Director said prior to the implementation of the Dataseam project, UofL had one successful researcher and had developed one successful cancer drug and three other drugs under review. The university now has 14 researchers using the computing system, and nearly $11 million has been obtained by the researchers through federal grants and research funding. He said 55 school districts with approximately 200,000 students statewide are utilizing 8,000 computers on the grid; 2,500 teachers and 68 technicians have received technology training; and 25 teachers have received grant writing training to secure additional Perkins funding for their districts.

Staff of the Kentucky Higher Education Assistance Authority (KHEAA) and the Kentucky Higher Education Student Loan Corporation (KHESLC) discussed student financial aid programs in Kentucky including the College Access Program (CAP) grant, which provides access to students with financial needs; the Kentucky Tuition Grant (KTG), which offers students with financial need the choice of attending an independent institution; and the Kentucky Educational Excellence Scholarship (KEES), which recognizes students based on grade point averages and ACT scores. As required in KRS 154A.130, nearly 100 percent of net lottery proceeds, minus $3 million for literacy initiatives, is earmarked for these programs, with KEES receiving 45 percent, and CAP and KTG combined receiving 55 percent.

Staff explained the changes made to the KEES program during the 2008 General Assembly: a new supplemental award for students in high school who are eligible for free and reduced-price lunch and who make qualifying scores on the AP or the international baccalaureate exams. The awards range from $200 to $300. The first disbursements will be made in 2009-2010. The costs of the supplemental awards were not included in the biennial budget proposed for KEES because the agency was not aware of the change at that time.

Staff discussed the CAP and KTG fiscal year 2009 projected disbursements and unfunded awards. Staff said $62.5 million will be disbursed for the CAP amount, but this leaves $54 million in unfunded awards. Approximately $32.5 million will be disbursed for KTG, but $4 million will be left unfunded.

In 2007-2008, KHEAA distributed $640 million to student borrowers and their families. The average student left school last year with outstanding federal loans of just over $15,000. This amount is increasing but is less than the national average.

At the first meeting at which KHEAA participated, staff described the impact on Kentucky borrowers of the federal 2007 College Cost Reduction and Access Act, which cut federal subsidies paid to KHESLC, reduced default reimbursements to KHESLC, increased the fees KHESLC pays to the U.S. Department of Education, and reduced account maintenance fees paid by the department to KHEAA. These cuts total at least $20 million annually, and these loans would not be available to Kentucky borrowers for the 2008-2009 academic year, unless a solution was found. At the second meeting, it was reported that Kentucky had found a temporary, 1-year solution by purchasing a $50 million private placement bond from KHESLC. This innovative solution provides an adequate return on investment for Kentucky and allows KHESLC to continue to serve Kentucky students and families as well as colleges and universities.

The Commissioner of Education and staff of the Kentucky Department of Education gave updates and presentations throughout the 2008 Interim. Staff reported that the development and piloting of end-of-course testing had stalled due to the lack of appropriations to carry out these functions.

The department has reviewed the inconsistencies in the transportation funding formula. Recommendations on proposed changes were not provided to the committee.

In a discussion of the Infinite Campus Technology System, staff testified that implementation is on schedule and improvements are being incorporated. Staff acknowledged that there were complaints from some local school districts about the implementation and also acknowledged that, while the prior vendor who lost the contract to Infinite Campus Technology System had filed a lawsuit, the department had followed all required procedures in cooperation with the Finance and Administration Cabinet, which ultimately awarded the contract.

Presentation of the 2008 test scores for the Commonwealth Accountability Testing System and a report of the Commissioner's Task Force on Assessment and Accountability led to many questions and comments from committee members who expressed concern that even though Kentucky students have made progress in student achievement at all levels, the progress is too slow and insufficient, particularly among subpopulations, middle school, and high schools.

The site visit to Campbellsville University was designed to learn more about the role of independent universities and colleges. Following a site tour and learning about the university, the President of the Association for Independent Kentucky College and Universities and representatives of the association described the impact of these institutions. The 20 nonprofit,

independent colleges and universities are accredited by the Southern Association of Colleges and Schools. They meet the same rigorous quality standards as Kentucky's public colleges and universities.

He said there are 29,000 students enrolled in the independent institutions, of which 75 percent are Kentucky residents. These institutions offer diverse campuses, missions, and student bodies. The campuses are located across the state and offer a number of extended sites and partnerships with businesses and the Kentucky Community and Technical College System. Students also have the opportunity to study at international sites and through online courses.

The average tuition is one-third lower than the national private college average and one-fourth lower than the southern private college average. Kentucky's independent institutions receive less than 4 percent of Kentucky's student aid. In return, Kentucky's independent institutions award 22 percent of Kentucky's bachelor degrees; more than 5000 total degrees annually; a high percentage of bachelor's degrees in math and science, education, and nursing; and bachelor's degrees in many underserved parts of the state.

Approximately 100,000 alumni live in Kentucky and generate $4 billion in annual earnings and $416 million in state tax revenues. Campuses provide more than $1.1 billion in educational facilities and have a combined total annual economic impact of more than $1.4 billion.

The site visit to the Gatton Academy for Mathematics and Science in Kentucky, located at Western Kentucky University (WKU), gave members an opportunity to tour the physical facilities and to interact with students. The academy is funded by the Kentucky General Assembly and private donations. It enrolled its first students during the 2007-2008 school year and serves as a statewide high school. Eighty-one counties have been represented during the first three admission cycles, and 131 applications were received from 61 counties for the 2010 class, of which 63 students have been accepted. The Director said the 29 male and 34 female students accepted for 2010 have an average ACT composite score of 28.75, with an average ACT math score of 29.14. He said the academy's core curriculum includes 12 university courses in math and science taught by WKU professors. Students who complete the program will have earned high school diplomas and at least 60 college credits.

The President of Western Kentucky University also gave a comprehensive overview of the university, its goals, and status.

The committee reviewed Executive Order 2008-515 relating to the Kentucky Department of Education, Executive Order 2008-530 relating to the reorganization of the Education Cabinet, and Executive Order 2008-836 relating to the Council on Postsecondary Education. The committee reviewed administrative regulations 11 KAR 3:100, Administrative wage garnishment; 16 KAR 3:050, Professional certificate for instructional leadership-school principal, all grades; and 702 KAR 4:180, Implementation guidelines-Kentucky School Facilities Planning Manual.

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

Subcommittee Activity

Subcommittee on Elementary and Secondary Education

The Subcommittee on Elementary and Secondary Education met three times during the 2008 Interim. Each meeting reviewed a support system designed to help students be successful either in or outside of the classroom.

Many students must enroll in remedial courses during their first year of college because they are unprepared for the academic course work. Members heard discussion on how universities and local school districts are developing joint strategies to help high school students transition successfully to postsecondary education. Strategies include but are not limited to

- providing professional development to math and science teachers by university math and science faculty;
- implementing GEAR UP programs designed to prepare low-income middle and high school students for postsecondary education;
- establishing P-16 Councils that include members representing the schools and the communities; and
- offering summer programs through which students can take development courses before entering college as freshmen.

While it was noted that all levels of the education system are doing a better job of working together, transition points between elementary, middle, high school, and college still need attention.

A local district presentation on the Character-Centered Teaching program demonstrated how teachers and support personnel might teach students appropriate personal, interpersonal, and civic behaviors. The program integrates words such as "respect, responsibility, perseverance, honesty, and loyalty" into academic instruction. Character coaches help teachers organize teaching materials and assist them with lesson planning. In addition, coaches work with business and community members to get them involved in the program. Results following program implementation included a reduction in discipline problems and student suspensions and improvement in students' critical-thinking skills, higher-order-thinking skills, and problem-solving skills.

The November meeting focused on a review of the Extended School Services (ESS) program conducted by the Office of Education Accountability (OEA). The ESS program is designed to offer extra instructional time to students having short- or long-term academic difficulties. While OEA staff observed a number of schools using ESS funds in ways proven to increase student academic achievement, they also observed schools using funds in ways that have not been proven to raise student achievement. A major conclusion of the study was that the current ESS program lacks consistent instructional focus. The report suggested that a more structured ESS program would provide greater benefits for students and that the Kentucky

Department of Education should take a stronger supervisory role to help schools and districts link data, resources, and best practices. Staff from the Kentucky Department of Education presented a response to OEA's review and gave a brief summary of the actions taken by KDE to address the recommendations. They explained proposed changes to existing administrative regulations that will strengthen the program.

Subcommittee on Postsecondary Education

The Subcommittee on Postsecondary Education devoted all three of its meetings to an in-depth exploration of issues related to the affordability of higher education in Kentucky. Members heard testimony from the Council on Postsecondary Education on

- the major components affecting college affordability, including tuition, room and board, books, merit versus need based grants, loans, and contributions from parents and students;
- the impact of college affordability on particular types of students, including low income, transfer, and adult learners;
- affordability data trends in Kentucky and national comparisons; and
- the linkage between tuition, student financial aid, state appropriations, and student success.

The Kentucky Higher Education Assistance Authority reported on the three major student financial programs accessed by Kentucky students:

- College Access Program Grant
- Kentucky Tuition Grant
- Kentucky Educational Excellence Scholarship

Subcommittee members received information regarding

- the demographics of grant recipients;
- funded disbursements and unfunded awards;
- trends in the amount of KEES awards in relationship to tuition fee increases;
- comparisons of undergraduate student aid expenditures across the region;
- comparisons of award policies across various states;
- information on student loans and loan forgiveness; and
- new initiatives in Kentucky for adult learners and those attending less than half time.

The subcommittee also explored solutions to help keep college affordable and accessible in Kentucky. Members heard reports from financial aid directors from a 4-year public college, a 4-year private college, and a community college. These reports focused on the impact of state and federal policies on these institutions. The presenters recommended consensus projections for increasing investments in CAP, KTG, and KEES that they believe are needed between 2010 and 2020.

The Kentucky Chamber of Commerce asked committee members to consider a solution called a Guaranteed Affordability Program that would establish a shared responsibility for student financial aid among students, families, institutions, and the government. This recommendation would require a study to ascertain costs associated with shared responsibility.

Unpredictable revenue challenges the creativity of universities and college to maintain quality programs at affordable rates. The Council on Postsecondary Education and a representative group of colleges and universities shared reports on strategies being applied during 2008-2009.

The most common cost-containment strategies reported are

- reducing faculty and staff positions through attrition;
- implementing a hiring freeze;
- reorganizing university administrative functions by eliminating or combining roles and functions;
- delaying the addition of planned new programs and courses; and
- restricting staff travel.

The reports suggest that many of these measures negatively impact the morale of staff and the ability of the institutions to attract and maintain a stable, dependable workforce. Reductions in faculty may reduce the number of courses offered, which would restrict student flexibility in program planning. Reductions in other staff positions may significantly restrict library, laboratory, and other support operations.

Efficiency measures impacting campus operations represent short-term but significant financial savings for the institutions. The reports suggest that continued investment in technology systems will be necessary for these efficiency strategies to be effective over time. A few institutions are experiencing significant problems with facilities maintenance and structural stability.

The reports also indicated that some individual institutions are exhibiting considerable creativity in providing staff incentives and increasing student access to programs and services in spite of revenue short falls. Those exploring expansion of online courses stressed the financial support necessary for such technologies to be successfully utilized. Others found it necessary to reduce the number of athletic programs available and to eliminate off-campus courses and community outreach initiatives.

Report of the 2008
Special Subcommittee on Energy

Sen. Brandon Smith, Co-Chair
Rep. Rick Nelson, Co-Chair

Sen. Walter Blevins, Jr.
Sen. Charlie Borders
Sen. Tom Buford
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Tom Jensen
Sen. Vernie McGaha
Sen. Jerry P. Rhoads
Sen. Katie Stine
Sen. Robert Stivers II
Sen. Johnny Ray Turner
Rep. Royce Adams
Rep. Rocky Adkins
Rep. Scott Alexander
Rep. Eddie Ballard
Rep. Dwight D. Butler
Rep. Leslie Combs
Rep. Tim Couch
Rep. Will Coursey
Rep. Jim Gooch, Jr.
Rep. Keith Hall
Rep. Thomas Kerr
Rep. Lonnie Napier
Rep. Fred Nesler
Rep. Sannie Overly
Rep. Tanya Pullin
Rep. Tom Riner
Rep. Brent Yonts

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

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Special Subcommittee on Energy

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

Committee Activity

The Special Subcommittee on Energy examined a number of issues related to natural gas in 2008. Early in the legislative interim, the Managing Director for Policy Analysis of the American Gas Association discussed the state of the gas market today and the outlook for the future. Increased use of natural gas as an electric generation fuel has led to summertime peaks in demand. Because gas has traditionally been stored during low-demand summer months for use during the higher-demand winter months, the summertime spikes in demand will result in higher gas prices for consumers this winter. It is anticipated that demand for relatively clean-burning natural gas will rise when carbon constraints are imposed in response to global climate change. Declining consumer consumption of gas is attributed to conservation and increased efficiency. A presenter from Prime Group LLC explained that suppliers are seeking innovative rate structures that will allow them to keep their profit margins up in the face of declining demand from existing users. Decoupling rates from the volume of gas sold was presented as one alternative. Other statutory and regulatory methods of rate stabilization were discussed.

Using natural gas for transportation fuel was advocated by representatives of Interstate Gas Company and American Clean Air Partners. Price, availability, and the clean burning nature of natural gas offer improvement over current motor fuels. The presenters acknowledged that difficulties are expected both in increasing the number of natural gas vehicles and increasing the availability of fueling stations.

Representatives of a natural gas re-marketing firm appeared before the subcommittee to describe difficulties that the company has experienced in attempting to expand its business in Kentucky. They propose changes to the tariffs of natural gas utilities that would allow commercial, industrial, and governmental customers to purchase their gas from a re-marketer.

High on the list of hurdles to be overcome when addressing climate change is the emission of carbon dioxide. It is widely anticipated that constraints on carbon emissions will be imposed at the federal level, perhaps in the near future. The impact on Kentuckians will be profound because the state relies almost exclusively on burning coal for the generation of electricity. The University of Kentucky's Center for Applied Energy Research (CAER) is seeking ways in which waste carbon dioxide can be used as well as ways in which it can be captured and stored indefinitely. The Associate Director of CAER and its engineering program manager outlined progress in the area. The 2007 General Assembly appropriated money for research into carbon sequestration by injecting it deep into the earth. The Kentucky Geological Survey has been charged with drilling two test wells, one in the eastern coal fields and one in the

west. The Manager of Sequestration Research Projects and the State Geologist appeared before the subcommittee to provide an update.

In the past 3 years, the Kentucky General Assembly has passed a number of ground-breaking energy bills designed to move the state and the nation toward energy independence and to address the future of energy both for those who consume it and those who produce it. The Commissioner of the Department for Commercialization and Innovation of the Cabinet for Economic Development reported to the subcommittee on the current progress of the New Energy Ventures Fund. Applications were received in the areas of biofuels, coal, wind, and solar. Also reporting were the commissioner and the Director of Program Management for the Incentives for Energy Independence of the Cabinet for Economic Development. The cabinet, the Department of Revenue, and a consulting firm have reviewed applicants for tax incentives provided by House Bill 1 of the 2007 Second Extraordinary Session. The presenters described the selection process as well as the projects (ethanol, syngas, urea, biodiesel) that have been preliminarily approved. The General Counsel and the new Executive Director of the Public Service Commission reported on progress made by the commission on tasks assigned by HB 1 and also HB 2 from the 2008 Regular Session. The Public Service Commission sees a need for improvement of evaluation methods for demand-side management and has begun considering uniform net-metering and interconnection guidelines. The Executive Director expressed a need for more staff and requested a more explicit policy statement by the legislature in support of incentives to utilities for demand-side management, development of renewable generation, and environmental initiatives.

The subcommittee spent a portion of several meetings examining planning for the Commonwealth's energy future both within state government and in the universities. The Secretary of the newly reorganized Energy and Environment Cabinet appeared twice. In July, he reported on the structure of the agencies in the new cabinet, and in November he delivered the administration's new 7-point strategy for energy independence.

The important link between higher education and the energy future of the Commonwealth was explored at two meetings. At the first, students from the University of Kentucky presented research projects on postcombustion carbon capture, high-value carbon applications, and solar technologies. At the second, the dearth of qualified energy auditors and the resulting difficulties created for broad-scale deployment of efficiency and conservation measures were outlined.

Other presentations to the subcommittee included the American Petroleum Institute discussing oil in the state, nation, and world. The Cabinet for Health and Family Services also presented the block grant application for the Low Income Home Energy Assistance Program for the 2009 federal fiscal year.

No prefiled bills were considered.

Report of the 2008
Interim Joint Committee on Health and Welfare

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

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

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

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

Subcommittee on Families and Children

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LRC Staff: Ben Payne, Jonathan Scott, and Cindy Smith

Subcommittee on Health Issues

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Interim Joint Committee on Health and Welfare

Jurisdiction: Matters pertaining to human development, health, and welfare; delivery of health services; fire prevention and protection; support of dependents; garbage and refuse disposal; public assistance; child welfare; adoptions; assistance to children; children's homes; disabled persons; family welfare; aid to the blind; commitment and care of children; mental health; substance abuse; health, medical, and dental scholarships; local health units and officers; vital statistics; communicable diseases; hospitals, clinics, and long-term care facilities; food, drugs, and poisons; restaurants and trailer park regulations; sanitation plants; sanitation districts; alcoholism; health professions; physicians, osteopaths, and podiatrists; chiropractors; dentists and dental specialists; nurses; pharmacists; embalmers and funeral directors; psychologists and clinical psychologists; optometrists; ophthalmic dispensers; physical therapists.

Committee Activity

During the 2008 Interim, the Interim Joint Committee on Health and Welfare held six meetings. The committee was organized into two subcommittees: Health Issues, and Families and Children.

Major Issues Considered by the Committee

Child Welfare

The committee heard several presentations related to child welfare. An update on the Kentucky Court Appointed Special Advocate (CASA) program was presented by the Director and two family court judges. The program works with foster children in the court system. The mission of Kentucky CASA is to present a statewide voice for abused and neglected children and to enhance the growth and support of existing CASA programs. There are 21 CASA programs in Kentucky and more than 7,000 children in out-of-home care. Without help, these children are at high risk for homelessness, unemployment, incarceration, and drug and alcohol abuse as adults. A CASA volunteer visits with a child regularly and provides a consistent presence in his or her life. The volunteer researches the child's history and present situation, files court reports, and appears before the judge to advocate for the best interests of a child. Children with a CASA volunteer, when compared to children in like circumstances without a CASA volunteer, spend significantly less time in foster care, have fewer disruptions in placement, and have fewer numbers of placements.

The Director indicated that all Kentucky CASA programs are funded by private, nonprofit funds. The group raised approximately $3.25 million through grants, fundraisers, and community partners. Kentucky CASA requested $1 million from the General Assembly in 2008, but the request was not approved. Each CASA program costs $55,000 per year. Federal Title IV-E provides funds for reimbursement of training CASA volunteers, but Kentucky is ineligible because it does not provide state funds. There are approximately 2,116 CASA cases in 42 counties. He said the program needs approximately $1.5 million additional funds. Currently, only Kentucky and West Virginia do not provide state dollars for CASA.

A former foster child who is the founder and current Chief Executive Officer of the District of Columbia CASA discussed his personal experience that led him to his dedication to improving the care of children in the foster care system. He stated that it is important to match children with the strengths of families, screen care providers, address the mental needs of children, and make sure families have the resources needed for the children in their care.

The Commissioner of the Department for Community Based Services (DCBS), the President of the Children's Alliance and the board Chairperson of Prevent Child Abuse Kentucky made a presentation on the foster care system in Kentucky.

The Commissioner stated that approximately 7,100 children are in the foster care system, and 9,000 children are in kinship care. Children may stay in foster care until age 18, unless the child is still in school and asks for an extension. Children who are low functioning remain with the department in a different capacity. Foster care is meant to be a temporary solution. The safety of the child is the main priority. The department tries to place the child with a family member. Approximately 74 percent of the children who are removed from their homes are returned to their families. The longer a child stays in foster care, the greater the likelihood that he or she will be placed in several foster homes. Approximately 70 percent of the children who are placed in foster homes do not move in the first month of placement, approximately 45 percent of children stay in the same foster care home within a 12-month period, and 90 percent of children with siblings are maintained in the same foster home.

The Executive Director of the Commission for Children with Special Health Care Needs (CCSHCN) gave an update on the Medically Fragile Foster Care Program. A licensed registered nurse serves as a consultant to foster parents and the assigned social service worker of a medically fragile child. The commission also has nurse consultants in each of the nine DCBS service regions. The nurse consultants also are available to all social service workers at any time for matters concerning children in or at risk of out-of-home placement.

In collaboration with the University of Kentucky, CCSHCN maintains a primary pediatric care clinic staffed by professionals familiar with foster care. An array of assessment, care, and coordination services are available to children in the welfare system. Transition planning and parent consultants help children and families plan and prepare for changes as the children grow.

A representative of the Kentucky Foster and Adoptive Care Association testified on the needs of foster parents for supports from the cabinet so they can provide the best homes possible for children in their care.

Child Health

The committee heard from representatives from the March of Dimes about the Healthy Children Coalition, a new coalition including the March of Dimes, Johnson & Johnson Pediatric Institute, and the Kentucky Department for Public Health. The coalition's focus is on lowering the preterm birth rate in selected areas by 15 percent. Kentucky was chosen for the pilot after a nationwide review of communities with high rates of preventable preterm birth. In Kentucky, the

rate of late preterm births is 11 percent; the rate of women of child bearing age smoking is 34.2 percent; and the rate of uninsured women of child bearing age is 19.4 percent. Pilot programs are underway at three sites: King's Daughters' Medical Center in Ashland, Trover Health System's Regional Medical Center in Hopkins County, and the University of Kentucky Albert B. Chandler Hospital in Lexington.

Parents of a child with autism and a parent and aunts of a child with apraxia testified about the difficulty of accessing and paying for services for children with these diagnoses.

The Director of the Lifehouse, a maternity home in Louisville, testified that the home provides a place for women of all ages to safely deliver babies.

Public Medical Assistance

The committee heard an update on the Kentucky Medicaid budget from the Deputy Commissioner of the Department for Medicaid Services. She indicated that the cabinet would finish fiscal year 2008 near the forecasted budget amount of $4.9 billion. The department will attempt to avoid costs through the Pharmacy Management Program and Patient Care Management initiatives. The department will implement statewide disease and case management programs for specific diseases and chronically ill individuals who are high cost. The statewide disease and case management programs will ensure that members have the most appropriate care and positive outcomes, decrease and control the amount of Medicaid dollars spent, and empower members with health education and clinician contacts. The department plans to review areas where reimbursement for the same service varies across programs, review areas where there are less costly alternatives, and engage the Passport Health plan in partnering with Medicaid to develop cost-containment strategies.

The committee heard an update on the Kentucky Children's Health Insurance Program (KCHIP) by representatives from the Cabinet for Health and Family Services. They stated that Kentucky's goal is to locate and enroll at least half of the 67,000 children who are eligible but have not signed up for the program. About 53,000 children are currently enrolled in the program that provides coverage for children whose parents earn up to 200 percent of the federal poverty level. If the state meets its goal, the cost would be an additional $31 million in state funds and $81 million in federal matching dollars. The program currently costs the state about $103 million per year. The state plans to eliminate the requirement for applying in person for KCHIP and offer a simpler application available online in order to increase enrollment. The state also plans to hire 28 people to process applications and increase outreach, recruit participants through other programs, and send postcards to parents of newborns.

The committee heard testimony about the Passport Health Plan from the Chairman and Chief Executive Officer, the Executive Vice President, and the Executive Director of University Health Care, Inc. Passport is the operating name for University Health Care, Inc., a Medicaid managed care plan that serves the Medicaid and KCHIP populations. The plan serves approximately 140,600 members in 16 counties: Jefferson, Oldham, Trimble, Carroll, Henry, Shelby, Spencer, Bullitt, Nelson, Washington, Marion, Larue, Hardin, Grayson, Meade, and Breckinridge. The presenters discussed the successes of the program including cost containment,

and quality health outcomes. They also discussed the Passport Advantage plan, which is a special needs plan for individuals who have dual eligibility in Medicaid and Medicare. There are currently about 9,500 members in the Advantage plan.

Access to Health Care

The Executive Director of the Foundation for a Healthy Kentucky and the interim Co-director of the Institute for Policy Research at the University of Cincinnati gave an overview of the 2008 Kentucky Health Issues Poll. The survey results indicated that 20 percent of adults 18-64 are uninsured, and 28 percent have been without insurance at sometime in the past year. About 60 percent responded that they are insured through an employer, and 20 percent responded that they have public insurance.

The co-chairs and project director for a new health care coalition, Kentucky Voices for Health, said that the coalition includes advocates working to expand health coverage in the public and private sectors, to identify revenue sources to support public health care programs, and to build the capacity of consumers to advance health care reform in Kentucky. The coalition is supported by a grant from the Public Welfare Foundation to the Foundation for a Healthy Kentucky. They said that a current focus of the group is to significantly increase the tobacco tax in order to reduce smoking and improve health.

Medical professionals from Henderson asked to extend certificate of need approval for angioplasty procedures at Methodist Hospital in Henderson. Angioplasty procedures are sometimes performed at out-of-state hospitals on Kentucky residents by Kentucky medical professionals because Methodist Hospital does not have approval to perform them.

The committee heard a presentation on proposed legislation of the Kentucky State Assembly of Surgical Technologists by the Surgical Technology Director at the Kentucky Community and Technical College System (KCTCS) in Owensboro, a vascular surgeon, and a surgery educator. The Director stated that the legislation has two objectives: to improve patient safety by ensuring all surgical technologists employed in Kentucky health care facilities in the future have demonstrated and documented competency as entry-level practitioners, and to increase the professionalism and regard for Certified Surgical Technologists among their peers. She stated that KCTCS currently has nine statewide accredited surgical technology programs providing associate degree and diploma education.

Representatives from the Kentucky Hospital Association testified in opposition to the legislation. They said there are only two states that mandate technicians to be certified and that there are no current studies showing that not having certified technicians was detrimental to patient safety.

The Commissioner of the Department for Public Health testified about efforts to reduce tobacco use. Kentucky's Tobacco Prevention and Cessation Program aims to reduce preventable and premature deaths attributed to tobacco use and exposure to secondhand tobacco smoke. This includes local and statewide programs encouraging youth not to use tobacco products and helping those who want to quit. With Tobacco Master Settlement Agreement funds and a grant

from Centers for Disease Control and Prevention, department staff provide ongoing technical support and training for local health departments and funding to help them achieve area goals.

The Indiana State Health Commissioner testified about Indiana's tobacco prevention and cessation program. Indiana increased cigarette taxes by 44 cents, to 99.5 cents, and all of the revenue collected from the tax is used for health care. After the tax increase and with other initiatives, the state had a 20.5 percent drop in the consumption of tobacco.

Long-term Care

An update on the Glasgow Nursing Home was given by the Acting Deputy Commissioner of the Department for Mental Health, Developmental Disabilities and Addiction Services; the Director of the Division of Facilities Management; and the Commissioner of Facilities in the Finance and Administration Cabinet. They said that the 2008-2010 biennial budget includes language that requires the cabinet to develop a plan to replace Glasgow State Nursing Facility and submit it by December 1, 2008, to the Legislative Research Commission. The nursing facility is licensed for 100 beds and designated as an Institution for Mental Disease. The facility houses 78 residents who cannot be placed in a regular nursing home environment because of their extensive psychiatric medical and behavioral needs. The cabinet has spent approximately $1.1 million since a major structural defect was discovered to create a temporary habitable and safe place for the residents. Permanent repairs to the existing structure would cost more than $12 million, and the cost to replace the existing structure would be $20 million. The cabinet was advised that the existing structure should be routinely monitored by a structural engineer to verify its structural integrity until a new structure can be built.

The President of the American Association of Retired Persons discussed the issues related to the elderly population. By 2020, there will be an estimated 750,000 Kentuckians over the age of 65. Today, Kentucky ranks 27th in the proportion of population over age 65. By 2025, Kentucky is projected to rank 14th. Kentucky's aging services budget has received only one increase in 15 years. There are almost 7,000 older Kentuckians who do not receive state services that they need. There are another 7,800 receiving some help but who need additional help to stay in their homes. The annual cost of living in a nursing home for one individual under Kentucky Medicaid is approximately $35,000. The cost for the same individual to remain at home under the Medicaid Home and Community Based Waiver is about $5,000 per year.

Mental Health

The Commissioner and Deputy Commissioner of the Department for Mental Health and Mental Retardation Services and the General Counsel for the Cabinet for Health and Family Services testified about the recertification of Oakwood Intermediate Care Facility for Persons with Mental Retardation in Somerset. The Commissioner stated that federal funding for Oakwood was officially terminated on May 15, 2008, due to noncompliance with Federal regulations. The cabinet appealed the termination and plans to reapply for certification from the Centers for Medicare and Medicaid Services. The FY 2008 revenue loss resulting from Oakwood's decertification is $1.8 million in federal funds and $700,000 in Medicaid state general funds. The department anticipates managing the SFY 2008 revenue loss within existing

resources. A monthly revenue reduction of $3.5 million in federal funds and $1.5 million in state general funds in SFY 2009 is expected as a result of Oakwood's decertification. Since September 2005, 70 individuals have been moved out of Oakwood into the community, and 24 individuals are in the process of finding a community provider and starting the planning process to transition. There are currently 221 individuals living at Oakwood.

The presenters stated that the worst-case scenario for recertification is that the state continues to pay for the operation of Oakwood without federal assistance. Only the General Assembly has the authority to close the facility.

A retired Louisville Metro police officer and Crisis Intervention Training (CIT) program coordinator gave an update on the program. The aim of the program is to help officers understand how to recognize people with mental illness and deal with the situation calmly. On average, Kentucky law enforcement personnel respond to more than 20,000 calls involving the mentally ill per year. In its first year, the CIT program trained more than 200 officers from 81 statewide law enforcement agencies. The calculated savings for the state was approximately $2 million. This figure does not take into account the amount of money saved by diverting people from jails and courts and helping them get appropriate treatment. The goal is to have local law enforcement instructors in each region team with the local community mental health center to train additional officers. This would eliminate the need to bring in outside law enforcement.

The Chief Executive Officer from Seven Counties Services, Inc., a private, non-profit corporation that provides planning, prevention, treatment, and support services for persons with mental illness said it operates at 40 sites and at more than 90 schools. Seven Counties serves Jefferson, Henry, Bullitt, Oldham, Shelby, Spencer, and Trimble counties, and is one of 14 comprehensive community mental health centers in Kentucky. Its operating budget in FY 2007 was approximately $81 million, and it serves about 32,000 persons each year. In 2007, it received $23.5 million from the Department for Mental Health and Mental Retardation, $30.4 million from Medicaid and Medicare, and $23.8 million from state and local grants.

Health Care Research and Programs

The committee heard from the President of the University of Louisville about the university's mission to be a premier metropolitan research university. The Executive Vice President stated that the university's success has come through an integrated vision that includes Bucks for Brains, translational research, Campus Master Plan, educating Kentucky's future workforce, and strategic investment in the clinical enterprise.

The Chair of Neurology and Director of the university's Stroke Center demonstrated the remote presence robot. With the remote robot, she is able to hear a patient's heart and lung sounds, look into the pupils, and perform a physical work-up just as if she were in the room with the patient. This service is covered by both Medicare and Medicaid. All of the 364 doctors in the 12 statewide hospitals must be credentialed to use the technology. The university leases the robot for $5,000 per month.

The Executive Vice President for Health Affairs from the University of Kentucky testified about the mandate from the Kentucky General Assembly for the university to become a top-20 public research institution. The university reaches nearly 150 clinical outreach health care practices and links to approximately 4,500 beds. From FY 2004 through FY 2013, the anticipated investment in the clinical enterprise will exceed $1.6 billion and will be completely self-funded through operations and bond issues. More than 2,000 incremental jobs already have been created, and approximately 500 additional jobs will be created from FY 2008 to FY 2013.

Referred Block Grant Applications

Pursuant to KRS 45.353, the committee held legislative hearings on four block-grant applications: 2009 Community Mental Health, 2009-2010 Temporary Assistance for Needy Families (TANF), 2009 Title V Maternal and Child Health, and 2009 Substance Abuse Prevention and Treatment.

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee reviewed 23 administrative regulations upon referral from the Administrative Regulations Review Subcommittee under the review process established in KRS Chapter 13A. No administrative regulation was found deficient.

Referred Executive Orders

Pursuant to KRS 12.028, the committee held legislative hearings on one executive order upon referral from the Legislative Research Commission: Executive Order 2008-504, Reorganization of the Cabinet for Health and Family Services.

Subcommittee Activity

Subcommittee on Families and Children

Child Health

During several meetings, the subcommittee focused on child health and spinal cord research. The Kentucky Spinal Cord Injury Research Center discussed current research into retraining and the adaptability of the spinal cord. Center staff said that Bucks for Brains dollars have allowed the university to bring in top faculty and researchers and improve patient care.

The First Steps Program, Part C of the federal Individuals with Disabilities Education Act, requires every state to maintain and implement a statewide interagency system to provide early intervention services for infants and toddlers with disabilities and their families. First Steps in Kentucky serves children from birth to age 3. Any child with developmental disabilities can be referred into the program by a family member, a child care provider, or anyone else who has contact with the child.

The Department of Pediatrics at the University of Kentucky discussed teen suicide in Kentucky. Suicide is one of the top three causes of death for 11- to 21-year-olds in Kentucky. Youth mortality and suicide rates are higher in Kentucky than in the nation. The department detailed the University of Kentucky Adolescent Health Program and its practices to help prevent teen suicide in Kentucky.

The Department for Public Health discussed the process of disease surveillance and reporting diseases. Risk factors that children have for infectious diseases and disease prevention strategies were discussed.

School Nutrition and Physical Activity

The subcommittee addressed the topic of school nutrition and physical activity. The Division of Nutrition and Health Services for the Kentucky Department of Education informed the subcommittee about how menus are formulated in Kentucky schools. Each school meal plan is federally required to serve one-third of the recommended daily allowance of nutrients. The subcommittee also learned about the fresh fruit and vegetable program and the food commodity program from the U.S. Department of Agriculture (USDA). Kentucky has more schools recognized by the Healthier U.S. Schools Challenge than any other state.

The Education Policy Division of The Council of State Governments also discussed school nutrition. Nationally, more than 10.5 million school children participate in the School Breakfast Program, with 70 percent receiving lunches free and 10 percent receiving them at reduced prices. Nearly 31 million school children participate in the School Lunch Program, with nearly 50 percent receiving them free and 10 percent receiving them at reduced prices. The council discussed the USDA Commodity Food Program and how it supplies schools, with 20 percent of the school meal consisting of more than 180 different commodity foods. The council has drawn links connecting school nutrition to childhood obesity and points out that 25 million children and adolescents are overweight or obese. Kentucky students are above the national average for students who are overweight or obese.

The Office of Local Programs of the Kentucky Transportation Cabinet oversees five programs that allow communities to develop bicycle and pedestrian programs and facilities. The five programs are Transportation Enhancements, Safe Routes to School, Congestion Mitigation and Air Quality, Scenic Byways Program, Transportation Community and System Preservation. The general criteria the Office of Local Programs uses to select projects are based on need, benefits to a community, reliable estimates, funding possibilities, and the projects readiness for implementation. The sponsoring local entities of the projects are expected to solicit public support, obtain matching funding, and arrange for long-term maintenance.

Child Welfare

The subcommittee heard presentations from Family and Children First and Family Place, two organizations in Louisville that serve the Louisville Metro area by assisting with issues of child abuse, family violence, counseling services, reunification services, and homelessness prevention initiatives. The two organizations are merging to offer improved and expanded

services for families and children affected by violence, abuse, and neglect. Combined, they will serve more than 5,000 families annually; 75 percent of those families will have incomes less than $15,000. Almost 16,000 children sustained some form of maltreatment in Kentucky in 2006. More than $1.4 billion is spent in Kentucky annually on the immediate and long term effects of child abuse. The new organization plans to create a child trauma center where all children who are maltreated can receive mental health, medical, law enforcement, and child protective services in one location.

The Office of the Ombudsman in the Cabinet for Health and Family Services presented the Child Protective Services Complaint Report that was mandated in House Joint Resolution 137 from the 2007 Regular Session and HJR 17 from the 2008 Regular Session of the General Assembly. The Ombudsman's office is required to investigate any county with 10 or more justified complaints about protective services within a 6-month period. The Office of the Ombudsman reports directly to the secretary of the cabinet, promoting independent investigations conducted by the divisions of Performance Enhancement, Institutional Review, and Complaint Review.

The Department for Community Based Services (DCBS) discussed the ways in which the cabinet responds to the Child Protective Services Complaint Report. DCBS follows a process after it receives the report from the Ombudsman's office. A main issue identified by the reports is the inconsistent monthly home visits by DCBS to families. DCBS stated that it is working to maintain regular contact with the families and the cabinet and not just with the child and the cabinet.

The Department for Public Health discussed the Child Fatality Review System Report and the origins, purpose, and function of the review system. The operational structure and practices of local and state Child Fatality Review Teams were discussed. The teams operate to help coroners' investigations for persons younger than 18. It was reported that 67 Kentucky counties have teams, 45 counties have no teams, and 8 counties are developing teams. There is a 2-year lag between the collection of the child fatality data and when it is reported. Some of the leading causes for death of children in Kentucky were unintentional injuries, congenital anomalies, Sudden Infant Death Syndrome, diseases, and suicide. Transportation deaths are the leading cause of injury deaths to children; and in half of these deaths, the children were not in child safety restraints. The second leading cause of injury deaths of children in Kentucky is child abuse. Kentucky is above the national average in childhood injury deaths.

Childhood Conditions

The subcommittee heard presentations on challenges children face. The Kentucky Autism Training Center and the STAR Autism Treatment Services, both based at the University of Louisville, discussed their programs and how they strive to help children in Kentucky. The Kentucky Autism Training Center is a school-based training and technical assistance program. The center is working in cooperation with the major state universities to develop programs to address the training needs of professionals dealing with autism.

The STAR Autism Treatment Services Program is operated by the University of Louisville's Weisskopf Child Evaluation Center. The program provides clinical services in behavior management, biomedical, early childhood, family counseling, occupational therapy, program planning, speech and language, and social skills. Since the program began, 425 patients have been served from 50 counties in Kentucky and from some nearby states. The subcommittee also heard about the new autism center at UofL.

The Commission for Children with Special Health Care Needs reported on its programs for children with physical disabilities. The commission strives to help these children through direct services, leadership, education, and collaboration. The commission operates 13 regional offices and provides services to more than 8,000 children annually.

Subcommittee on Health Issues

The Subcommittee on Health Issues met four times during the 2008 Interim.

University of Louisville Health Initiatives

Cancer Research

Researchers from the James Graham Brown Cancer Center reported on its cancer research initiatives. The center has had a 200-fold increase in research funding since 1999. Research is underway using a computer grid to identify better anticancer drugs. The project is being conducted in partnership with Dataseam, a not-for-profit company, to manage the computer grid with unused computer capacity in Kentucky schools. Fifty-two school districts, concentrated in the counties with a high prevalence of lung cancer, participate in the project. As a result of the project, 65 cancer targets have been identified and are being investigated by researchers at the center.

Life Sciences Center

The President of the University of Louisville reported on the progress of the Nucleus life science and innovation center project. The university has collaborated with the community over the last decade to make Nucleus a nationally significant life sciences center. Nucleus is an umbrella organization that includes the Louisville Medical Center Development Corporation, Haymarket developers, and the UofL Health Sciences Center. Investment in the Nucleus project represents about $2.3 billion. The center is projected to bring 8,700 high-paying jobs which will be created by expanding research, incubating start-ups, and recruiting health care and life sciences businesses.

Women's Health

The Chair of the Department of Obstetrics, Gynecology, and Women's Health in the School of Medicine reported on women's health initiatives. Medical researchers at the university have pioneered minimally invasive surgical techniques for hysterectomy. Other research has focused on innovative cancer diagnostics and treatment; maternal-fetal immune interactions; the

emotional impact of infertility; and the human papillomavirus vaccine. The university has programs to care for vulnerable populations and a cultural diversity program to care for women and families from diverse backgrounds. The university plans to establish an urogynecology and continence center and an interdisciplinary center for women's health.

Department for Public Health

A representative from the Department for Public in the Cabinet for Health and Family Services stated that the public health system is the largest health care delivery system in the state with 250 sites in 120 counties. In 2007, 1 million patients visited local health departments, and 3 million services were delivered. The public health report card for Kentucky compares favorably to other southern states. Kentucky ranked as having one of the best prenatal care programs in the South. The state also ranks high in immunizations, and the newborn metabolic screening program is distinguished nationwide. The department also has a strong program in emergency preparedness and was called to provide services for 2,000 evacuees from hurricane Gustav this year that were evacuated to Louisville.

Kentucky Behavioral Risk Factor Surveillance System Survey

The results of the 2007 Kentucky Behavioral Risk Factor Surveillance System Survey were presented. The survey is conducted by phone in conjunction with the Centers for Disease Control and Prevention. Overall, the results of the survey were not good. The data indicated that Kentucky has some of the highest prevalence rates of chronic diseases such as diabetes, stroke, and heart disease; ranks 9th in obesity; and ranks 19th for uninsured adults. Almost one-third of respondents reported no physical activity. To improve the health status of Kentuckians, the Department for Public Health has developed a global plan that includes a focus on the main risk factors for poor health: tobacco, physical activity, and poor nutrition. The plan includes a five-pronged approach that focuses on local-level resources, schools, the medical professions, worksite wellness, and disease management. A Diabetes Center for Excellence has been established and has six pilot sites encompassing 30 counties.

Mental Health

Suicide Prevention

A public awareness campaign on suicide prevention called "Let's Talk" was launched statewide. Kentucky has the 17th highest rate of suicide deaths in the U.S. In Kentucky, suicide is the second leading cause of death for those in the state between the ages of 15 and 34, and the fourth leading cause of death for ages 34 to 54. The problem of suicide is compounded by the stigma and silence surrounding the issue. The public awareness campaign is designed to educate Kentuckians about the warning signs of suicide and help people discuss suicide. Part of the prevention campaign includes training in the suicide prevention technique QPR—question, prevent, respond.

Behavioral Health and Criminal Justice Grant Project

Representatives from the Cabinet for Health and Family Services and the Campbell County District Court reported on the behavioral health and criminal justice grant project. The cabinet received a planning grant from the Health Foundation of Greater Cincinnati to establish a program to serve individuals with mental illness who interface with the criminal justice system. The recidivism rate is high among the mentally ill. Efforts such as the grant project may help to reduce costs and overcrowding in jails. A pilot project launched in northern Kentucky hopes to identify ways to ensure that individuals with severe mental illness and co-occurring disorders have prompt access to treatment, know about opportunities for diversion, move through the criminal justice system in a timely manner, and know about community resources. The project is working to coordinate the activities and responses of the local law enforcement community, jails, courts, and the community. The project is also working with state and local partners. As part of the project, a regional mental health court has been established that includes Boone, Kenton, and Campbell Counties. In the pilot phase, the mental health court will handle about 30 cases. The planning grant includes funding to hold a conference scheduled for April 2009 and a strategic planning meeting to include national experts.

Health Disparities

Kentucky received a grant from the Department of Health and Human Services to establish the Office of Minority Health within the Cabinet for Health and Family Services to address health disparities and the health needs of racial and ethnic minorities in Kentucky. One of the objectives is to improve statewide communication and collaboration regarding minority health issues. The initial priority area for the office will be to implement a project to reduce health disparities in infant mortality. The project will include aligning with the Department for Health and Human Services' Blueprint for Action on Infant Mortality. The grant funding is for 1 year.

HIV/AIDS

The Chair of the HIV/AIDS Planning and Advisory Council discussed its annual report. The council's recommendations include increasing state funding of the Kentucky AIDS Drug Assistance Program by $1.4 million, requiring comprehensive sexuality education in all public middle and high schools, defining the procedures for conducting voluntary HIV testing of inmates, and promoting surveillance and care services to address the impact of poly-substance abuse in the transmission of HIV.

The Clinical Director of the WINGS clinic, an outpatient treatment facility in Louisville, discussed the trends seen in HIV/AIDS patients. The clinic is the largest provider in the state for outpatient treatment of HIV/AIDS patients and one of four Ryan White Part C clinics in Kentucky. The clinic sees about 20 new cases per month. The fastest growing HIV/AIDS population is women. Nationwide, the infection rate for HIV/AIDS has not decreased, but the death rate has. Testing and prevention remain the most effective tools in decreasing the infection rate.

Tobacco Use in Pregnancy

Smoking during pregnancy is the single most preventable cause of death and disability for maternal and infant health in the U.S. Exposure to secondhand smoke during pregnancy also causes premature death in infants and adults. Kentucky ranks 49th for the percentage of women who smoke during pregnancy. The average cost for a preterm birth in Kentucky is $37,000. It is estimated that total costs could be reduced by $14.5 million if the smoking rate for pregnant women in Kentucky was lowered to the national rate. The Department for Public Health started a pilot program targeting pregnant smokers called Giving Infants and Families Tobacco-free Starts, or GIFTS. The program is being piloted in a nine county area where the smoking rates in pregnancy range from 35 percent 58 percent. The program provides personalized contact with the mothers. The program has identified 749 smokers, enrolled 420 pregnant women, and has had 26 percent of participants quit smoking. The estimated combined cost of case management for identified and enrolled smokers is $1,120 per smoker.

Report of the 2008
Interim Joint Committee on Judiciary

Sen. Robert Stivers II, Co-Chair
Rep. Kathy W. Stein, Co-Chair
Rep. Greg Stumbo, Vice Chair

Sen. Perry B. Clark
Sen. Carroll Gibson
Sen. Ray S. Jones II
Sen. Gerald A. Neal
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Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

Penal Code and Controlled Substances Act Subcommittee

Sen. Gerald A. Neal, Co-Chair
Rep. Jeff Hoover, Co-Chair

Sen. Carroll Gibson
Sen. Ray S. Jones II
Sen. Jerry P. Rhoads
Sen. Richard "Dick" Roeding
Sen. Katie Stine
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LRC Staff: Norman W. Lawson, Jr., Jonathan Grate, Raymond DeBolt, Joanna Decker, Andrew Howell, and Carolyn Gaines

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; juvenile matters.

Committee Activity

The Interim Joint Committee on Judiciary held five meetings during the 2008 Interim. The Penal Code and the Controlled Substances Act Subcommittee was appointed as mandated by 2008 Senate Joint Resolution 80. The subcommittee held two meetings in addition to the interim joint committee meetings, one in Lexington at the annual meeting of the Kentucky County Judge/Executive Association and Kentucky Magistrates and Commissioners Association and one at the Morehead State University Center in West Liberty.

The committee heard from county judges/executive, the Justice Cabinet, and the Department of Corrections officials on jail costs. They discussed the problems counties have in funding jail operations because counties are bearing the costs of incarcerating prisoners prior to trial and of prisoners convicted of misdemeanors. County officials testified that these costs exceed $130 million per year. They also said that medical costs for prisoners were increasing.

Justice Cabinet officials testified about the release of state prisoners from county jails and prisons on an accelerated basis as authorized by 2008 HB 406, the state budget. The releases are expected to save the state more than $10.5 million in the next 2 years. County officials testified that early releases hurt county budgets because the counties depend on state funding for convicted felons housed in county jails to pay jail expenses and to retire bonds issued county jail expansions. The county officials testified that there is a $28 per prisoner per day loss to the county. Because of early release, many county jails are now 60 to 70 prisoners short of the target amount, costing counties $10,000. The President of the Commonwealth's Attorneys Association said that the state should pay the costs for housing convicted felons from the date of conviction or plea of guilty rather than from the date of sentencing. This would ease on counties that now pay to house a convicted felon prior to sentencing. The Commonwealth's Attorneys Association President also testified that part of the delay is the time necessary to prepare the presentence report, and that there are too few probation and parole officers assigned to prepare these reports.

A Kentucky Supreme Court Justice testified about a proposed new uniform schedule of bail for the Supreme Court's Criminal Rules Committee. Senate Bill 92 from the 2008 Regular

Session authorizes the use of set amounts of bail for nonviolent Class D felony offenses. Under the proposals, other nonfinancial conditions of release could be used by the releasing judge to ensure that the defendant complies with the conditions of release. The Justice recognized that there are public safety considerations and political risks with releasing defendants prior to trial because a certain number of releases may commit new crimes while on pretrial release. The new bail schedule proposes $1,000 bail for a Class A misdemeanor, $500 bail for a Class B misdemeanor, and $5,000 bail for a Class D felony.

The Secretary of the Justice and Public Safety Cabinet said that a circuit judge in the 28th Judicial Circuit had prohibited the state from early release of prisoners from that circuit. The committee was also informed that the full savings from early release of prisoners would be $10.5 million. The Secretary acknowledged that violent inmates were being released early, but he noted that these same inmates were already scheduled for release in the next months due to expiration of their sentences.

The Chairman of the Parole Board indicated that the current caseload of a probation and parole officer is 92 parolees or 50 sex offender parolees. Over the past 4 years, caseloads had been reduced slightly, but the national average of 75 parolees per officer had not yet been reached.

Several groups spoke about how to reduce the time that prisoners spend in jail prior to trial, which in some counties exceeds 1 year, through the use of "rocket docket" pretrial proceedings and the use of felony mediation programs. In the rocket docket program, the Commonwealth's attorney, the defendant, and the defendant's counsel meet as early as possible to work out a plea agreement in which the defendant pleads guilty and is sentenced to prison without lengthy jail time prior to trial. In such cases, the county saves money in pretrial incarceration costs, and the defendant does not linger in jail prior to trial and has a speedy resolution of legal problems. Testimony indicated that rocket docket is used only in a few counties and requires additional judicial, prosecutorial, defense, and probation and parole support personnel.

The criminal mediation program is similar to the rocket docket, but the mediation program must be requested by a local circuit judge and prosecutor. In this program, when there is a backlog of cases, the circuit judge and the Commonwealth's attorney request that the Supreme Court assign one or more senior status judges to hold criminal mediation sessions between the Commonwealth's attorney, defendant, and defendant's counsel to reach the same accelerated plea agreement as in the rocket docket program.

Representatives from crime victims' organizations and private citizens asked that the plight of crime victims be considered and that the permissive use of deadly force by victims in self-defense be expanded. Their belief is that criminals should not be rewarded with free room and board, health care, education, and state support for the criminal's family at the expense of the victim and the victim's family and business. The victims' organizations urged that violent criminals not be returned to the community through an early release program.

A spokesperson from the Kentucky Correctional Institution for Women testified about the Paws for a Purpose program in which inmates train dogs as service animals for the elderly and disabled. Inmates train and provide basic care for the dogs; food, veterinary care, crates, and other supplies are donated.

County attorneys and the Revenue Cabinet spoke about a problem in the sale of tax bills. Normally, a county attorney will work under a contract with the Revenue Cabinet to collect unpaid tax bills and receive a fee for services. However, in recent years, tax bills have been auctioned by the sheriff to private third-party purchasers. The tax bill is paid immediately by the third-party purchaser, who then collects from the person who did not pay the taxes the cost of the bill, interest, fees, and other costs of collection. The interest on the bills is 12 percent. The committee heard that the purchasers of these bills frequently avidly pursue the person for payment but will not negotiate payment options because as long as the payment is not made, interest and other fees continue to accrue. It was also alleged that the collectors assess exorbitant charges, which have resulted in many complaints to county attorneys, sheriffs, the Revenue Cabinet, and other officials. At present, a committee of county attorneys is working with the cabinet on proposed legislation to alleviate the problem.

A circuit judge testified about the drug court diversion program in her jurisdiction in which the court requires participants to remain drug free; submit to random, no-notice drug testing; maintain employment or education; attend counseling and drug treatment sessions; undergo anger management and other necessary programs; and remain under strict supervision. The court system provides counselors and other persons to assist, but the program requires the cooperation of Commonwealth's attorneys, defense attorneys, and the defendants for the program to succeed. She indicated that the biggest problem in rural areas is transportation. Many participants do not have a driver's license and there is no public transportation; therefore, it is difficult for participants to get to the required programs and court appearances. She also said treatment options and the capacity of existing programs should be increased.

A legislator who is a defense attorney observed that some drug court programs tend to shut out the defendant's attorney after the person enters the program, which may create a due process problem and inadequate representation. The drug court program is an alternative to incarceration and upon successful completion of the program, the judge testified, that charges are dismissed.

The Secretary of Justice and the President of APRISS, a private vendor, spoke about an extension of the criminal justice information system into an improved umbrella program that will be available to all criminal justice agencies and the courts. Some of the programs included in the contract with this company include JusticeXchange, which shares offender information throughout the country; MethCheck, which helps to identify in real time who is purchasing medicines necessary for the production of methamphetamine; SONAR, which provides information on sex offenders; and AlertXpress, which provides rapid emergency notification to persons living near custodial institutions when an inmate escapes. The Secretary reported that the contract and the user procedures were designed to prevent abuses and unauthorized access.

The Secretary of State urged support for a reintroduction of a revised version of 2008 Senate Bill 62, which would provide privacy protection for victims of domestic violence to prevent the perpetrators from using voting and other public records to find out where a victim lived. He said he will reintroduce legislation that will heighten requirements to become a notary public, assign a unique identifier to each notary, provide for electronic notarization, and enhance the possibility that notarized documents can be better used nationwide. Several members were concerned that the proposed requirements would make it more difficult to obtain notary services in rural areas.

Regarding proposed changes to the Penal Code and the Controlled Substances Act, a private attorney urged decriminalizing possession of drug paraphernalia, reducing overcharging in private prisons, and restricting use of the persistent felony offender statute to persons who commit repeat violent offenses. A professor from the University of Kentucky College of Law reported that Kentucky prison population increases at a higher rate that the nation due to enhancements in felony penalties, the overuse of the persistent felony offender statutes, and the broadening of such statutes from their original enactment. The professor has tracked several individual offenders against whom the persistent felony offender statutes had been used and asserted that most were for nonviolent offenses. He suggested that some drug offenses and enhancements should be eliminated. Reducing the number of inmates will free funds for rehabilitation because new prisons cost $90 million or more. He suggested that the committee review Model Penal Code revisions by the American Law Institute.

The Fayette Commonwealth's Attorney testified that the persistent felony offender statute is the most effective tool for keeping repeat offenders incarcerated and that the law should remain unchanged. He urged the incarceration of more first-time offenders and asserted that 5 percent to 6 percent of the offenders commit 50 percent to 80 percent of the crimes. Several members urged increased use of treatment programs and alternatives to incarceration relating to offenders with substance abuse problems.

The Chief Justice of the Supreme Court of Kentucky testified that he wanted a more constructive relationship between the court and the General Assembly. He indicated that he had implemented the program for enhancing the salaries of deputy circuit clerks; that the court system had increased civil filing fees and associated costs as authorized by the General Assembly; and that he plans to contract with a private collection firm to recoup unpaid fines, fees, and court costs. The fee increases have generated approximately $5 million in additional revenue. Although the court system is implementing cost saving measures, de anticipates that by 2011, there will be a deficit of $37.5 million in the court system, including $15 million deficit in the courthouse replacement program.

The Chief Justice also spoke of the potential burden on the Judicial Retirement System with the retirement of up to 45 judges by the end of 2008. These retirements will not reduce the financial burden on the court system because the new judges will have the same salary and benefits of those who retired. The Senior Status Judge program will end on January 31, 2009, which will negatively impact the court system if it is not continued by the 2009 General Assembly.

Subcommittee Activity

Penal Code and Controlled Substances Act Subcommittee

The subcommittee was charged with reviewing the penal code and the Controlled Substances Act, hearing testimony as to problems with the current law and recommendations for change, and making recommendations to the full Interim Joint Committee on Judiciary and to the Legislative Research Commission.

A retired Chief Justice of the Kentucky Supreme Court detailed the history of the preparation of the current penal code. He observed that there were 3,000 to 4,000 persons in prison when the original penal code was adopted; there now are 21,000. Despite a Supreme Court case authorizing incarceration of felons in county jails, he felt this violated Section 253 of the Constitution of Kentucky. He said that much of the increase in the prison population was due to the persistent felony offender statute.

The subcommittee also heard from the University of Kentucky law professor who assisted in drafting the original penal code. The original code was enacted in 1974. He noted that work on the code started 6 years prior to its final enactment and that the purpose was to modernize the criminal law of the state. He said an advisory committee of judges, prosecutors, and defense attorneys reviewed the work of the original drafters. The professor reported that changes to the code that have resulted in increases in incarceration include elevating misdemeanors to felonies, increasing the penalty levels for additional felony offenses, and the persistent felony offender law changes. Additionally, passage of the "truth in sentencing" legislation has caused an increase in incarceration time. He observed that incarceration in jails results in inadequate services, no treatment programs, and a substandard level of treatment for felons housed in county jails.

Several people testified that the drug laws are part of the penal code. The Controlled Substances Act is a stand-alone chapter that provides penalties for drug offenses. The UK professor indicated that changing misdemeanors to felonies, increasing the felony level for repeat offenses, and a tough attitude on crime have increased incarceration rates. He urged change for the statute that elevates any misdemeanor drug offense within 1,000 yards of a school to a felony and that increases any felony by one degree of punishment. Of 400 cases he studied where the statute had been applied in Fayette County, none of the persons was selling drugs to children but was merely within the geographic bounds of the statute.

Commonwealth's attorneys suggested that the committee review all inmates' entire criminal records to determine what past behaviors might have led to their current incarceration and to determine if the persistent felony offender statute was used against them. A prosecutor urged the subcommittee not to change the persistent felony offender statute because it is a valuable tool to keep repeat offenders from preying on the public. The Commonwealth's Attorney indicated that prosecutors are willing to talk about increasing the felony theft level from $300 to $500, but at the same time urged increasing offenses to a higher felony level. The prosecutor further urged the use of the rocket docket program to ensure incarceration for first offenders, reduce pretrial jail time, increase efficiency of the system, and reduce overall costs.

Current and former public advocates urged the committee to reduce penalties overall and reexamine the declining use of alternatives to incarceration. The former public advocate observed that other states and the federal government have eliminated parole. He said that only 1 percent of criminal cases go to trial and that lengthy pretrial incarceration, overcharging by police and prosecutors, indiscriminate use of the persistent felony offender statutes, and other factors favor defendants pleading guilty to offenses they did not commit. Public advocates urged increasing the felony theft level to $1,000, eliminating the guilty but mentally ill statute, eliminating enhancements for drug offenses, reducing all penalty ranges by several years, and increasing penalties for business and commercial offenses. The public advocates urged the Parole Board to parole more prisoners because the number of prisoners denied parole has increased in recent years.

The Secretary of the Justice and Public Safety Cabinet reported that, under an order from the Governor, the Criminal Justice Council has been studying changes to the penal code and to the Controlled Substances Act concurrently with the studies by the subcommittee. Some of the council's recommendations include setting a statute of limitations at 5 years for some Class D felonies and 10 years for Class C felonies; increasing the felony theft limit to $500; increasing the penalty for theft of $60,000 to a Class C felony; increasing the penalty for theft of more than $60,000 to a Class B felony; cumulating credit card offenses to reach the $500 limit; adopting the rocket docket program; providing counties the funds for pretrial detention of prisoners found guilty of felonies; paying county jails the incarceration costs from the date of conviction rather than from the date of sentencing; and creating of a Class E felony offense with a term of 1 to 3 years for current nonviolent Class D felonies.

With regard to drug offenses, the secretary recommended making possession of mere drug residue a misdemeanor; setting quantity limits for the possession and sale of certain drugs; removing the felony enhancement for drug paraphernalia offenses; reducing the 1,000-yard limit for drug activity near schools; using pretrial diversion programs for lesser drug offenses; adjusting penalty levels for drug trafficking offenses based on quantity; and expanding substance abuse programs in jails.

With regard to probation and parole, the Secretary recommended expanding medical parole; using alternatives to incarceration for inmates with medical conditions or advanced age to take advantage of Medicare programs; expanding vocational education programs in prisons; adopting the federally authorized prison industries enhancement legislation allowing prison-made goods to be sold in the general commercial marketplace; using presumptive parole standards; and adopting progressive standards for parole violators.

The subcommittee recognized that it did not have sufficient time to fully complete its assigned tasks. The subcommittee recommended that it be reauthorized for 1 to 2 additional years. If continuation of the subcommittee's work is not feasible, the subcommittee recommended that a legislative task force complete the work and make recommendations.

Report of the 2008
Interim Joint Committee on Labor and Industry

Sen. Alice Forgy Kerr, Co-Chair
Rep. Mary Lou Marzian, Co-Chair

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

LRC Staff: Linda Bussell, Adanna Hydes, Melvin LeCompte, and Betsy Bailey

Presented to the
Legislative Research Commission
and the
2009 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; industrial weights and measures.

The committee held four meetings during the 2008 Interim. The issues discussed included workers' compensation, executive orders issued by the Governor, and unemployment insurance.

The Commissioner of the Department of Workers' Claims updated the committee on the status of implementation of Senate Bill 199 and House Bill 534 enacted during the 2008 Regular Session. SB 199 placed a moratorium on adoption of the sixth edition of the American Medical Association "Guides to the Evaluation of Permanent Impairment" (AMA Guides), published in December 2007, until July 2009 unless the Commissioner determined that the welfare of Kentucky's workers would be materially enhanced by earlier adoption. SB 199 further required the commissioner to study the feasibility of adopting the sixth edition or retaining usage of the fifth edition, and submit a report to the Legislative Research Commission by January 5, 2009. The Commissioner said a preliminary comparison of impairment ratings under the fifth and sixth editions indicates that the most significant differences appear to be in impairment ratings involving the lower extremities, especially for total knee, hip, and ankle replacements, and in cervical and lumbar fusions.

The Commissioner explained that Kentucky is not unique in not immediately adopting the sixth edition of the AMA Guides. Several states do not specify a particular edition, several states have state-specific impairment guidelines, and the majority of states are currently using the fifth or fourth edition. Alaska has adopted the sixth edition; New Hampshire, Vermont, Tennessee, and New Mexico have delayed adoption.

HB 534 requires the Department of Workers' Claims to provide notice to any additional insured named on a worker's compensation policy when the policy is cancelled or otherwise terminated. The department is in the process of changing its insurance database to show individual locations that are covered and to identify additional insureds. The new database will permit the department to implement a procedure to notify insureds when policies are cancelled.

The Secretary of the Labor Cabinet discussed Executive Order 472, which elevated the Department of Labor to the Labor Cabinet. Effective on June 16, the reorganization devised a revenue neutral, shared services concept. Under the shared services concept, the newly created Labor Cabinet, Energy and Environment Cabinet, and the Public Protection Cabinet will share fiscal, personnel, budgeting, computer and personnel services. The shared services unit was attached to the Labor Cabinet for oversight, but the employees of the unit respond to the three separate cabinet secretaries, who retain authority to administer the policies of those cabinets. The

new Labor Cabinet consists of two departments, the Department of Workers' Claims and the Department of Workplace Standards.

The Executive Director of the Office of Legal Services in the Personnel Cabinet explained Executive Order 08-471, which created the Governor's Employee Advisory Council (GEAC). Effective July 1, the order reestablished the original GEAC, created in 2001 and rescinded in 2003, and added new voting members to the council. The new members are the: secretary of the Personnel Cabinet, secretary of the Labor Cabinet, and a representative of the Governor's Office. The newly created GEAC retains the purpose and function of the former council and still covers only nonsupervisory classified employees. Participation in the GEAC is strictly voluntary, and employees will not be required to pay dues or fair share payments. The Personnel Cabinet is responsible for deducting dues if requested by an employee.

The Commissioner of the Department of Insurance discussed the 2008 National Council on Compensation Insurance (NCCI) workers' compensation loss cost filing. The Commissioner reported that a decrease in workers' compensation rates was recommended for the third consecutive year. Approved on September 1, the filing recommended a decrease in loss cost rates of 5.1 percent for industrial classes and 10 percent for coal classes.

A representative of NCCI explained that the council is the rating and advisory organization for most states and a data collection entity for injury and workers' compensation claims throughout the country. The primary responsibility of NCCI in Kentucky and most other states is preparing and developing workers' compensation loss cost and filings. In addition, NCCI prepares cost analyses on proposed workers' compensation legislation to determine the potential cost impact on the workers' compensation system in Kentucky.

NCCI representatives explained that the primary reason for the recommended decrease was a continued decline in claim frequency. Also, the average cost of indemnity claims has been moderating and has started to decline. NCCI expects the average indemnity cost to decline a percent each year relative to payroll inflation. The converse of that decline is that medical costs are still increasing although at a slower rate. Medical costs are expected to increase 2 percent to 3 percent annually above and beyond payroll inflation.

The Executive Vice President and Chief Financial Officer for the Kentucky Employers' Mutual Insurance Authority (KEMI), a workers' compensation insurance carrier created by the General Assembly in 1994, said the KEMI board of directors approved an overall workers' compensation rate decrease of 6.7 percent, noting that the reduction for the industrial classes was 5.5 percent, and the reduction for the coal classes was 8.8 percent. KEMI has 24,000 policyholders representing every county and has nearly 24 percent of the workers' compensation market share in Kentucky. KEMI has observed the same trends in decreasing claim frequency reported by NCCI. Medical costs are the primary driver in overall costs, with utilization probably being the most significant medical cost driver.

The President and CEO of KEMI informed the members about KEMI's Mine Safety and Training Competition that was held in Pikeville in August. The event included more than 300 competitors from 30 commercial coal companies and four states, and more than 150

representatives from the Federal Mine Safety and Health Administration and the Kentucky Office of Mine Safety and Licensing.

Representatives from the Department of Insurance gave an update on the AIK Comp issue. AIK Comp was a workers' compensation self-insured group that became insolvent in 2004. Under the direction of the Department of Insurance and a court-approved reorganization plan, AIK Comp was placed in rehabilitation. The reorganization plan was approved in conjunction with a settlement agreement with many of the AIK Comp group members who are jointly and severally liable for the deficit. The agreement required an assessment of approximately 4,000 employer members of AIK Comp. More than $80 million in assessments has been collected. As of February 2005, AIK Comp stopped writing new workers' compensation coverage or renewal coverage. Currently, it is in a run-off mode in which the sources of funds to pay claims are the assessment collections and funds recovered through third-party litigation. The department is involved in several lawsuits relating to AIK Comp in an effort to collect additional funds owed and does not anticipate having to make a second assessment.

The Director of the Division of Unemployment Insurance addressed the committee about the financial stability of Kentucky's Unemployment Insurance Trust Fund. The director reported that, at the end of August 2000, the trust fund balance was at a record high of nearly $725.8 million. At the end of August 2008, the balance was $229 million.

Unemployment insurance trust funds are considered to be "adequate" when they contain enough reserves to sustain 1 year of benefits at a historically high rate. Kentucky's trust fund, along with many others, falls below this threshold for adequacy. These measurements of adequacy do not take into consideration the tax revenues flowing into the trust fund at the same time benefits are being paid out. As long as revenues are adequate to meet current benefits, even a significantly reduced trust fund balance could be sufficient to preserve fund solvency.

The Director said that the next 6 months will be critical to answering the question of fund solvency. If total revenue collections and benefit payments from previous years continue at the same level during the next few months, Kentucky's trust fund balance at the beginning of April 2009 could be less than $36 million. Benefit payments this year are running more than 20 percent ahead of last year, while revenues are up less than 7 percent. Relief in the form of another Reed Act distribution of excess Federal Unemployment Tax funds to the states could profoundly change the near-term prospects for fund solvency.

Report of the 2008
Interim Joint Committee on Licensing and Occupations

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

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

LRC Staff: Tom Hewlett, Bryce Amburgey, Carrie Klaber, Michel Sanderson, and Susan Cunningham

Presented to the
Legislative Research Commission
and the
2009 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 salespeople; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; warehouses and warehousemen; partnerships; trade practices.

Committee Activity

The Interim Joint Committee on Licensing and Occupations met five times during the 2008 Interim.

The topic of charitable gaming was one of the issues most frequently addressed by the committee. The Commissioner of the Department of Charitable Gaming noted that gross receipts for the past year were roughly $500 million. He said the department receives no General Fund dollars but is instead funded through a one-half of 1 percent fee assessed against the gross receipts of charitable gaming, as well as licensing fees and fines. Gross receipts have been declining, and he attributed that to the increasing cost of gas, smoking bans, and the declining economy.

The Commissioner also referred to House Bill 156 of the 2007 Regular Session. HB 156 took some burden off charities by allowing smaller charities to report annually, instead of quarterly. The bill allowed the department to increase its fee from .53 percent of gross receipts to .6 percent of gross receipts, which was necessary because of the decline in gross receipts. Rep. Clark noted that the fund balances of the department had been transferred to the general fund during the recent budget session and indicated that this was not proper because the money originally came from nonprofit charities.

The Director of the Catholic Conference in Kentucky spoke on the issue of fund transfers. He said Catholic charities account for 30 percent of the charitable gaming licenses in the state, and people participate at these charity events with the understanding that the money goes to the charity and not to the state. Transferring the fund balances from the charitable gaming account amounted to a tax on the person playing the game as well as on the charity. Fund balances totaling more than $6 million have been transferred out of the charitable gaming accounts since 1998. He stated that HB 156 required the department to recalculate its fee every 2 years. The intent was to reduce the fee assessed on the charities, but due to the funds being transferred out of the account, the fee had actually increased this year.

The Commissioner of Charitable Gaming reported on his efforts to educate charitable organizations across the state. As a result, he said the department has seen a decrease in the number of fines and an increase in the number of exempt licenses issued to charities whose

annual gross receipts for charitable gaming are less than $25,000. Exempt licensees are only required to report annually, whereas larger charitable gaming operations are required to report quarterly. The Commissioner also called the 40 percent rule, which requires charitable gaming activities to provide at least 40 percent of the proceeds from gaming activity to the charity they are supporting, to be problematic. Most of the problems associated with this rule were due to a lack of training, which should be increased and made mandatory. Committee members from the Louisville area stated they had heard complaints from constituents about harsh or rude tactics employed by field inspectors of the department. The Commissioner and Deputy Commissioner stated that it is important to have staff perform in a professional manner. They said they would increase compliance officer training and encourage staff to work with the charities in a spirit of cooperation.

The Auditor of Public Accounts presented the findings from her report on the Department of Charitable Gaming. Kentucky is the only state that does not provide some revenue to the state's general fund from charitable gaming activities. The auditor also reported weaknesses in the oversight role of the department because statutes currently do not require the department to perform regularly scheduled audits of charitable gaming organizations. The Auditor also stated there is no deadline beyond which an organization's financial reports cannot be revised, so financial reports can be constantly changed.

The Commissioner of the Kentucky State Police reported on his department's efforts to control illegal gambling. He said that, due in part to the increase in drug-related crime, the State Police have been forced to prioritize efforts and generally only investigate illegal gambling when receiving complaints from citizens.

A number of groups seeking new or expanded professional licensure appeared before the committee. Staff presented information about the regulation of tattoo and body piercing studios in surrounding states. Representatives of the Department for Public Health spoke about efforts to inspect tattoo studios. Local health departments conduct inspections to ensure that tattoo studios are sanitary; however, artists are only required to pay a fee to be certified, and there is no requirement for training. Department officials also reported that some tattoo studios are engaging in body piercing, tongue splitting, and other body modifications, although these practices are not permitted by statute. Several committee members expressed concern that more regulation may be needed in the area of body piercing and body modification because those activities may involve procedures that are similar to surgery.

Representatives of the acupuncture profession said that there are now 41 certified acupuncturists in Kentucky. HB 17 of the 2006 Regular Session authorized the practice of acupuncture in the Commonwealth and provided a certification procedure. Acupuncturists plan to seek three changes to statutes governing the profession: changing the penalty for practicing without certification from a misdemeanor to a felony; eliminating the requirement to notify a physician prior to treating 1 of 10 medical conditions listed in KRS 311.680; and changing acupuncturists from a certified to a licensed profession.

Representatives from the Kentucky Community and Technical College System (KCTCS) and the surgical technologist profession spoke about certification for surgical technologists.

KCTCS officials indicated that the surgical technologist program has been well received, and there are nine accredited programs throughout the state. Officials stated they felt credentialing would increase the prestige of the program and attract more students. They also said credentialing would improve patient safety by ensuring that all surgical technologists employed in Kentucky are adequately trained. Individuals currently practicing surgical technology would be grandfathered into the certification. Several committee members raised concerns about other professions that could perform similar functions in an operating room and whether other training programs, such as on-the-job training at hospitals, would be included in the certification program. Sen. Denton and Rep. Burch asked about concerns hospitals might have about the credentialing program. KCTCS officials said some hospitals are concerned that restricting the field to only those who are certified might limit the hospitals' ability to hire adequate staff. KCTCS officials said they will meet with representatives of the hospital industry to work on a solution.

Representatives of construction industry trade groups and contractors spoke out against the practice of inappropriately identifying employees as independent contractors in order to avoid paying unemployment insurance and other payroll deductions. They said unscrupulous contractors have abused the subcontractor definition to artificially lower their payroll costs and create unfair advantages over other contractors who do not misclassify employees. Members agreed that a clear and concise definitions of "employee" and "subcontractor" were crucial. Co-chair Tapp asked if agencies were sharing information when they found that an employee had been misclassified. The speakers agreed that a lack of communication between agencies was a significant part of the problem.

The committee approved the reorganization of the Kentucky Horse Racing Commission. The Breeders' Incentives Division and the Veterinary Services Division were created by the reorganization. Licensing fees were also raised. Representatives from the commission emphasized its renewed emphasis on safety, including toe grabs, riding crops, and medications. The Director of the commission said one of its goals is to keep Kentucky in a leadership position on horse racing issues. She said there is concern that the federal government could take over the regulation of racing, which would mean that Kentucky would lose control of its signature industry.

The committee heard an update on the Supreme Court's decision on interstate wine shipments. The Commissioner of the Department of Alcoholic Beverage Control (ABC) reported that a majority of the changes implemented with the passage of Senate Bill 82 in 2006 had been upheld, but he noted that the provision requiring in-person purchase from wineries was deemed to violate the Commerce Clause. ABC is not enforcing that section of the statutes. Sen. Carroll asked if ABC was considering changes to accommodate the 2010 Alltech FEI World Equestrian Games at the Kentucky Horse Park. The Commissioner said the department was currently working to make sure the venue would be fully serviced. Co-chair Jenkins stated that she had heard reports that common carriers were refusing to transport wine due to confusion about the status of wine sales and shipments to various counties in the Commonwealth. The Commissioner said he was aware of the situation and would have a legislative proposal to address the issue during the upcoming session.

Representatives from the Department of Agriculture and the Kentucky Grape and Wine Council reported that there are currently 137 wine grape growers in the state and 49 small farm wineries in the state. There are 14 out-of-state small farm wineries licensed in Kentucky. Representatives from the department discussed marketing efforts and the marketing cost sharing program administered by the department to help small farm wineries increase their market share.

The committee heard about the regulation of mixed martial arts events. Representatives of the Department of Public Protection reported on the implementation of HB 684 from the 2008 Session. Prior to the enactment of HB 684, there was no regulatory body to oversee mixed martial arts events, which can include kicking, punching, choking, and joint locks. Department officials stated that 20 to 25 events per month were being held across the state without adequate medical personnel in attendance. Regulations adopted in response to the bill included requiring medical equipment and personnel to be on site during a competition. Also included are limitations on the types of blows that can be administered and limits on the number and durations of rounds during a bout.

Representatives of the Attorney General's office spoke on efforts by the office to educate industry and the public about the provisions of SB 57, "The Christine Talley Act," passed during the 2008 General Assembly. The Act relates to personal emergency response systems and requires firms providing the service to make certain that consumers can select 911 as the first number to be called if an emergency is signaled.

The committee also heard concerns about donation boxes being placed in communities by for-profit companies. Representatives from charitable institutions stated that they would be supporting legislation sponsored by Sen. Buford requiring for-profit firms placing donation boxes in public places to disclose that items donated would not be going to charitable causes. The disclosure would have to be printed on the donation box. Sen. Buford indicated that people could incorrectly assume that they were making a charitable donation when they placed items in these boxes. He said the problem could be compounded if individuals then deducted the donation from their taxes.

Report of the 2008
Interim Joint Committee on Local Government

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

Sen. Walter Blevins, Jr.
Sen. Julian M. Carroll
Sen. Carroll Gibson
Sen. Ernie Harris
Sen. Tom Jensen
Sen. Dan Kelly
Sen. Alice Kerr
Sen. Elizabeth Tori
Sen. Johnny Ray Turner
Sen. Ed Worley
Rep. Scott W. Brinkman
Rep. Ron Crimm
Rep. Robert R. Damron
Rep. Mike Denham
Rep. Ted "Teddy" Edmonds
Rep. David Floyd
Rep. Derrick Graham
Rep. Richard Henderson
Rep. Charlie Hoffman
Rep. Dennis Keene
Rep. Adam Koenig
Rep. Thomas M. McKee
Rep. Reginald K. Meeks
Rep. Brad Montell
Rep. David Osborne
Rep. Arnold Simpson
Rep. Ancel Smith
Rep. Ken Upchurch
Rep. Jim Wayne

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

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Local Government

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

Committee Activity

The Interim Joint Committee on Local Government met four times during the 2008 Interim.

Executive Reorganization Order 2008-509

The Commissioner of the Department for Local Government explained the effects of Executive Reorganization Order 2008-509, which renamed the Governor's Office for Local Development the Department for Local Government. The reorganization order constituted no new internal reorganizations of the department and did not affect staff of the department.

Kentucky Small Cities Community Development Block Grant

The Interim Joint Committee on Local Government is the designated committee for review of the Kentucky Small Cities Community Development Block Grant. At the public hearing, the Executive Director of the Office of Federal Grants with the Department for Local Government explained the differences between the 2007 application and the 2008 application the changes in funding levels, and answered questions. The Executive Director explained that the program is administered by the U.S. Department of Housing and Urban Development and that the primary mission of the program is to assist persons of low and moderate income. Noting that approximately $25.9 million is provided for Kentucky in the current year, the Director indicated that the amount is $600,000 less than the previous year's level. The Executive Director provided a breakdown of funds as follows:

Program Area	Funding Level for 2008
Economic Development	$7,500,000
Public Facilities	$7,000,000
Housing	$5,900,000
Community Projects	$4,500,000
Community Emergency Relief Fund	$1,000,000

Two program areas were deleted from the previous year, that of Recovery Kentucky and the Lake Cumberland water supply project program.

The Executive Director answered questions regarding the distribution of funds throughout the state, the Use of Funds Report, and the number of applications submitted and their disposition.

City Classification

Rep. Jimmie Lee addressed the committee on the topic of city classifications. He reminded the committee that no action had been taken by the General Assembly to establish a classification system that was different from the current population-based system as a result of the 1994 changes to Section 156A of the Kentucky Constitution. In his discussion, Rep Lee noted that a lawsuit had been lodged against the City of Elizabethtown challenging the appropriateness of its current status as a city of the fourth class when it had the population to be classified as a city of the second class under the current system. He sponsored legislation in 2008 that would have created a task force to study the system of classification. The bill did not pass.

The citizens of Elizabethtown who were involved in the lawsuit said that they had approached the Mayor and the city council to reclassify Elizabethtown as a city of the second class, but that they did not take action. The citizens said that the restaurant tax imposed by the city applies to cities of the fourth and fifth classes but that Elizabethtown's population should qualify it as a city of the second class. The citizens acknowledged that the judge said the restaurant tax could not be enjoined because only the General Assembly could resolve a city classification matter. The citizens wanted the General Assembly to require mandatory reclassification to the class in which the city qualifies and to establish a mandatory city classification system that would prevent a city from having a choice of classification.

Occupational License Fees

The Chair of the Northern Kentucky Association of Realtors and the President of the of the association addressed the committee on occupational license fees. The Chair of the Northern Kentucky Association of Realtors said realtors strongly believe in paying all business and payroll taxed in a timely and accurate manner, but they believe that the current process could be made easier. Realtors felt that the payment of occupational license taxes in northern Kentucky had become difficult because of the varying tax rates, filing deadlines, and people subject to the tax. The expense of completing the tax forms can exceed the amount of the taxes due. He acknowledged that progress had been made and reminded the committee of HB 729 proposed in

the 2008 Regular Session of the General Assembly to centralize occupational license tax collection. The bill did not become law.

The President of the Northern Kentucky Association of Realtors told the committee that the system proposed in HB 729 would work for realtors and for small business owners.

Representatives of the Kentucky League of Cities (KLC) testified that the occupational license fees accounted for about 40 percent of cities' revenues and that KLC is opposed to centralized collection. The Assistant City Manager from the City of Covington indicated that progress has been made at the local level to simplify administration of occupational license fees. He noted that the rules are not different from county to city statewide and that only the rates are different. He said that free help is available in Boone, Kenton, and Campbell Counties for the preparation of the occupational license tax forms.

Impact of the Film Industry in Kentucky and on Local Governments

The First Lady of Kentucky addressed the committee on the marketing opportunities to create an image for the state based on the landscapes in Kentucky. She said that the varied landscapes in the state are an advantage because filmmakers have a wider array of locations to choose from when making a film. Other states have an advantage when luring production companies because Kentucky offers no economic incentives to them. She is supporting a legislative proposal for 2009. The Mayor of Versailles said his city benefited from the filming of the movie *Elizabethtown*.

Two faculty members of communication at Eastern Kentucky University said that the number of students seeking motion picture degrees has increased threefold and that the film industry is using the university's students in productions. An Assistant Professor and Director of Theatre and Cinema Performance at Asbury College indicated that Asbury has invested $2.5 million in technology and a building for theatre and cinema.

The Director of Economic and Community Development of the Tourism, Arts and Heritage Cabinet provided follow-up discussion of the film industry's potential in Kentucky and presented three videos on economic opportunities relating to the film industry.

League of Cities 2009 Legislative Package

The Kentucky League of Cities presented its legislative package to the committee:

- **Pension Reform**. KLC is interested in pursuing a less aggressive but actuarially sound full-funding standard. It also wants the full-funding phase-in of the actuarially required contribution to be extended beyond the current 5-year timetable.
- **Telecommunications Tax**. The telecommunications tax was enacted to replace public service property taxes and local franchise fees on cable and telephone companies. Part of the tax package was a hold-harmless clause that turned out to provide revenue that still resulted in a yearly loss of $7.5 million. KLC wants to recover money lost and readjust the hold-harmless amount.

- **Revenue Flexibility**. KLC would support legislation to allow a local option for sales and income taxes.
- **Centralized Collection of Occupational License Fees**. KLC opposes the centralized collection of occupational license fees.
- **Charter County Governments**. KLC supports reorganization of the constituency of the charter commission and having the charter commission select its chair.

Kentucky Association of Counties 2009 Legislative Package

The Kentucky Association of Counties (KACo) presented its 2009 legislative package to the committee:

- **Pensions**. KACo, like KLC, is concerned about the retirement rates and the full-funding time-table for health benefits. In addition, KACo is interested in modifying two aspects of reemployment of retirees in local government: the requirement that a local government makes a contribution to the retirement system, but the employee will not participate a second time in the retirement system; and the requirement that if a retiree is reemployed with a local government and the employee has opted for health insurance from the retirement system, the employing local government must make a reimbursement to the retirement system for the cost of a single premium health policy.
- **Jail Funding**. Counties wish to be reimbursed for the time each prisoner spends in the county jail when that prisoner is charged with a felony and the sentencing judge gives credit for time served in the county jail toward the prisoner's sentence. In addition to the time served issue, KACo is interested in changing the current reimbursement rate for medical treatment for prisoners.
- **Collection of Property Taxes**. KACo fully supports the efforts of its affiliate organizations for omnibus changes to KRS Chapter 134, dealing with the collection of property taxes and the collection of delinquent property taxes and their subsequent sale to third parties.
- **Telecommunications Tax**. KACo supports changes to recoup money lost from the hold-harmless provision of the telecommunications tax legislation.
- **County Ordinance Passage Procedures**. KACo supports changing the county ordinance passage procedure to reflect the city procedures that are more economical. In addition, the association wants protocol in place to pass emergency ordinances.
- **Regional Wastewater Collection**. KACo supports a parallel procedure for wastewater collection on a regional basis similar to that for drinking water.
- **Occupational License Fee Set-Off Provisions Relative to 2010 Census**. KACo is concerned that, after the 2010 census, many counties will exceed 30,000 in population, which would set a maximum occupational license fee of 1 percent. KACo is concerned that this will invoke the offset provisions of the law providing a transfer of the 1 percent to the cities currently having an occupational license tax in the county.

Electronic Warrants

The Jefferson County Circuit Clerk and the Chief Information Officer of the Kentucky Office of Homeland Security presented an update and progress report of the Kentucky E-Warrant system. The system is operational in Jefferson, Campbell, Woodford, Bourbon, and Scott Counties. The administrators are planning to expand the system to include the 22nd Judicial

District of Fayette County; the 12th Judicial District of Oldham, Henry, and Trimble Counties; the 53rd Judicial District of Spencer, Shelby, and Anderson Counties; the 48th Judicial District of Franklin County; and the 55th Judicial District of Bullitt County.

The presenters informed the committee of the benefits of the system, the safeguards against file corruption, and the prerequisites for establishing the system in a particular county. As of November 18, 2008, 72 percent of the authorized warrants, 53 percent of the authorized criminal summonses, and 26 percent of the authorized bench warrants had been served. The system was discussed in terms of the National Crime Information Center reports. Finally, the presenters said the system would have minimal impact on sheriffs' offices.

Review of Administrative Regulations

The Interim Joint Committee on Local Government reviewed two administrative regulations:

- 815 KAR 7:070, relating to the Kentucky Certified Building Inspector Program; and
- 815 KAR 7:125, relating to the Kentucky Residential Building Code.

Report of the 2008 Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection

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

Sen. Perry Clark
Sen. Carroll Gibson
Sen. Denise Harper Angel
Sen. Vernie McGaha
Sen. Joey Pendleton
Sen. Jerry Rhoads
Sen. J. Dorsey Ridley
Sen. Richard "Dick" Roeding
Sen. Dan Seum
Sen. Katie Stine
Sen. Jack Westwood
Sen. Ken Winters
Rep. Sheldon Baugh
Rep. Larry Belcher
Rep. Tom Burch
Rep. Dwight Butler
Rep. Mike Cherry
Rep. Larry Clark
Rep. Tim Couch
Rep. Ron Crimm
Rep. Bill Farmer
Rep. David Floyd
Rep. Jim Glenn
Rep. Jeff Greer
Rep. Jimmie Lee
Rep. Tim Moore
Rep. Rick Nelson
Rep. Fred Nesler
Rep. Steve Riggs
Rep. Tom Riner
Rep. Carl Rollins
Rep. Steven Rudy
Rep. Sal Santoro
Rep. Charles Siler
Rep. Dottie Sims
Rep. Ancel Smith
Rep. John Tilley
Rep. Alecia Webb-Edgington

LRC Staff: Erica Warren, Mustapha Jammeh, Andrew Coyle, Clint Newman, and Rhonda Schierer

Presented to the
Legislative Research Commission
and the
2009 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

During 2008, the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection held six meetings. The committee adopted nine resolutions honoring Kentucky soldiers killed in the Global War on Terrorism.

In the area of veterans' affairs, the committee learned about the activities for veterans at Morehead State University, the GI benefits approval program, and the activities and services provided to veterans by the Kentucky Department of Veterans' Affairs (KDVA). Additionally, the committee heard about a partnership between KDVA and the University of Louisville (UofL) to provide specialized medical assistance to veterans in the state veterans' nursing homes, and from the Helmets to Hardhats organization that is providing training and apprenticeships in the building trades to veterans.

A Vice President at Morehead State University briefed the committee on the Eagle Monument Veterans' Memorial on campus, as well as what the university is doing to honor veterans and to encourage them and their families to take advantage of higher education opportunities at the university.

The Director of the State Approving Agency for Veterans Education for the Kentucky Community Technical College System shared his agency's role in veterans' education and training. KCTCS is responsible for approving programs eligible for GI Bill benefits. KCTCS provides technical assistance, evaluates application information, conducts inspection visits, and notifies public and private schools and training establishments of their approval or disapproval. Therefore, state approving agencies are both the face and gatekeeper of the GI Bill at the state level.

The Director added that the newly passed "Post 9/11 GI Bill" creates a sound base for funding state approving agencies in the future and will cover educational programs and training pursued on or after August 1, 2009. Individuals remain eligible for 15 years after discharge. The new bill will also pay tuition and fees, monthly housing allowances, and a stipend for books and supplies. This new bill not only addresses readjustment into civilian life but also contains stipulations that promote retention and reenlistment. Administration of the new GI Bill will be outsourced.

The Commissioner and Deputy Commissioner of KDVA, along with the Executive Director of the Office of Veterans' Centers (OVC), provided a budget overview to the committee, including budget reductions. The Commissioner stated that, taking budget cuts into account, the actual fiscal year 2008 agency budget was approximately $17.8 million in general funds and $26.6 million in restricted funds. The cost break down in the nursing homes is roughly one-third by the state general fund, one-third by the federal government, and one-third by the veterans themselves. The Commissioner gave a projected reduction plan of $1.8 million to include reducing personnel through attrition; reducing printing, fleet, outreach, and non-nursing staff; reducing or eliminating travel in field operations; contracting pharmacy services; eliminating daycare for staff; increasing maximum resident charges; and abolishing chaplain positions. In the meantime, there are significant cost increases due to the rising costs of supplies, food, medications, utilities, and fleet. The Commissioner also presented the agency's 2009 legislative priorities.

The Commissioner of KDVA gave an update on the state veterans' cemeteries. He gave an overview of the number of burials and interments at the three veterans' cemeteries, including the newest cemetery, Kentucky Veterans' Cemetery North in Williamstown, which was dedicated on August 22, 2008. He added that another cemetery is being designed in Greenup County, and they are looking at land in Leslie County for the fifth cemetery.

The Deputy Commissioner of KDVA gave an overview of the Veterans' Program Trust Fund. He reviewed its sources of income and reiterated that its purpose is to provide services to veterans that are not otherwise provided. Members of the board then gave a few examples of the way the trust fund has been put to use, including taking WWII veterans on "Honor Flights" to view the WWII monument in Washington, D.C.

The Executive Director of OVC presented specifics on the Kentucky veterans' nursing homes. He stated that all three facilities stay at full capacity and frequently have waiting lists. The federal government and the Department of Veterans Affairs (VA) helped in getting two new community-based outpatient clinics opened in Owensboro and in Grayson County, and they are working on getting clinics in Berea, Maysville, and Hopkinsville. Kentucky averages 510 residents in all three veterans' nursing homes on a daily basis. Currently, 282 residents receive free medication from the VA. Federal regulations were recently changed for veterans with 70 percent service-connected disabilities or higher to have their daily regular care paid by the VA. He added that effective July 1, 2008, the VA stopped charging those qualified for any cost of care, and the VA will retroactively pay for those residents eligible back to March 22, 1987. The Executive Director also presented KDVA's planned capital projects for the veterans' nursing homes.

The Executive Director of OVC and faculty from the University of Louisville gave an update on the Veterans' Nursing Homes Quality Enhancement Program, which will allow specialized care by physicians at UofL to assist staff at the veterans' nursing homes through the use of real-time robotic evaluation. The Executive Vice President for Health Affairs at UofL stated that part of the reason UofL is involved is to provide the veterans' nursing homes access to specialty care such as neurology, geriatrics, and geriatric psychiatry. Use of the RP-7 robot enables the highest quality of care to be delivered to even the most remote areas of the state.

UofL currently has deployed a robot to 12 hospitals throughout Kentucky. The next step will be to work with KDVA to outfit the facilities with wireless Internet so that the RP-7 robot can be used. UofL has approved up to $50,000 of its grant to provide the wireless capacity. They concluded their presentation by saying that the partnership between KDVA and UofL will make Kentucky the national leader in providing quality health care services to veterans.

The Executive Director of the Helmets to Hardhats organization and the state Director of the Building & Construction Trades Council briefed the committee on the Helmets to Hardhats program, which informs veterans about the building trades and opportunities for various apprenticeship programs and careers. The Executive Director stated that the Department of Defense funds the program and that it offers military veterans an opportunity to establish a lifelong career in the construction industry by providing a direct link to military job seekers. Veterans can access the program's careers and apprenticeships via the Internet anywhere in the world. The program has five field representatives throughout the U.S., works with 15 building and construction trade organizations, and represents more than 82,000 contractors and 85 apprentice crafts through its employer associations. Additionally, there is a wounded warrior program to support employment of disabled veterans. The Executive Director indicated that there are approximately 5,800 veterans currently seeking employment who live in the I-65 corridor between Louisville and Elizabethtown.

The committee also heard from the Joint Executive Committee on Veterans' Organizations about its 2009 legislative agenda.

Under the jurisdiction of military affairs, the committee learned of the Gratitude Campaign, overseas military voting programs offered by the secretary of state, the current status of the Kentucky National Guard, and the effect of Base Realignment and Closure (BRAC) on the Naval Surface Warfare Center in Louisville and on Fort Knox.

The Gratitude Campaign provides a discreet way for members of the public to thank soldiers for their service. The campaign promotes using sign language to say "thank you" in order to not intrude on soldiers' private time.

The Secretary of State discussed available voting programs for military and overseas voters for the 2008 general election. The Secretary of State's Office participated in the Federal Voting Assistance Program; the special federal voter registration and request for absentee ballot form; and the special federal write-in absentee ballot, which is for federal races only. He also discussed delivery options for these absentee ballot requests and absentee ballots, including U.S. mail, secure faxing, or secure email. He explained the different tools on the State Board of Election's Web site that are specifically for military and overseas voters. He concluded by explaining the "Vote in Honor of a Veteran Program," which encourages voting by reminding citizens that it is a right that soldiers fight to uphold.

The Adjutant General updated the committee on the Kentucky National Guard and the Kentucky Department of Military Affairs. Having just returned from visiting deployed National Guard soldiers, he spoke on the conditions in Iraq and the difficult situation in Afghanistan. As

of October 2008, 16 Kentucky National Guard members had died in combat in Afghanistan and Iraq. The Adjutant General also presented legislative priorities for the 2009 Regular Session.

He described the Yellow Ribbon Program, which prepares National Guard soldiers and families prior to deployment, assists them while soldiers are deployed, debriefs returning soldiers, and helps them readjust into their daily lives. He stated that this program relies heavily on volunteers, but there are now full-time, federally funded individuals who manage the program. He also briefed the committee on the status of the Military Family Assistance Trust Fund, including current funding and the number of requests made for this safety net of last resort.

The Adjutant General updated the committee on the National Guard Tuition Assistance Program. Use of the program has fallen off due to multiple deployments, but returning soldiers are beginning to enroll and take advantage of the program, which has only been funded through the fall semester and could be out of money entirely by FY 2010. He also mentioned the Bluegrass Challenge program that was established in 1999 helps people get their GEDs and helps get them into productive service.

The Adjutant General informed the committee about the Northern Kentucky Readiness Center in Boone County, with construction to begin October 1, 2010. The Paducah Armed Forces Reserve Center is 80 percent complete, with a final inspection scheduled for mid-December, and the Bluegrass Army Depot Armed Forces Reserve Center is 20 percent complete, with final completion expected in May 2009.

In August, the committee traveled to the Naval Surface Warfare Center (NSWC), formerly known as the Naval Ordinance Station, in Louisville to see the negative effects of the federal BRAC process. The lieutenant commander in charge of NSWC explained that prior to a BRAC decision to move the work to other locations, the center employed approximately 2,000 in integrating, testing, evaluating, and providing life-cycle engineering and logistics for surface warfare systems. The current employment is 200, with only 6 military positions and 194 civilians. The center will close in 2011, and the positions will be transferred to either New Jersey or California. Of the current staff, almost 20 percent are eligible for retirement, and most of those intend to retire rather than transfer. While the military component will come to an end in 2011, at least a portion of the private industries on the site plan to remain in Louisville after the center moves.

In November, the committee travelled to Fort Knox for a tour of BRAC-related construction on post and to learn how the surrounding community is preparing for changing demographics and additional residents due to BRAC changes on post.

The Garrison Commander of Fort Knox hosted the tour and briefed the committee on the status of the soldiers assigned to Fort Knox and the families left behind as those soldiers are deployed. He stated that because the United States is fighting on two fronts, soldiers are either deployed, deploying, or waiting to deploy. The Garrison Commander talked about the training programs currently on post to help prepare soldiers for their deployments, and mentioned the numerous services and activities offered on post for soldiers and their families while they are home and that help families when they are not. The Human Resources Complex (HRC) that is

moving to Fort Knox is a $200 million complex that will employ approximately 4,000. Currently, Fort Knox has an estimated daytime population of 24,000. By 2010, the estimated daytime population in Fort Knox will increase to 34,000 when Fort Knox receives the maximum number of BRAC-related groups. The population will later decrease slightly after the Armor functions permanently move to Fort Benning, but the challenge now is how to house and provide services for the post's largest population. The garrison commander estimated that over the next 2 years there will be 2,700 vacancies for civilian jobs, primarily in the human resources area.

The Executive Director of One Knox and the Executive Director of the Lincoln Trail Area Development District then updated the committee on activities and plans to assist the communities surrounding Fort Knox in preparing for the influx of new residents. The Executive Director of One Knox told of successfully hosting civilian personnel from the current HRCs around the country. Their studies estimate that the total population gain due to the groups coming to Fort Knox through BRAC will be 14,000. This will have a regional impact, including 6,000 new households and more than $300 million in new payroll. The expected state revenue generated by current and BRAC-related activities through 2011 will exceed $385 million.

The Executive Director of the Lincoln Trail Area Development District stated that the economic impact of the BRAC changes at Fort Knox rival those of Toyota in Georgetown. The area is working hard on joint land-use planning so that growth is intentional and does not infringe on the activities on post. Transportation planning has already yielded some results, and the local health departments are planning for an increase in services. The most difficult area to estimate is the number of school-aged children who will be entering the state system and the associated difficulty in pre-planning for those increases given the manner that educational capital projects are awarded.

The committee also heard from representatives of the Kentucky Commission on Military Affairs and the Cabinet for Economic Development on the state of the military industry and the economic impact of that industry on Kentucky.

Under the jurisdiction of public protection, the committee heard testimony from the Commissioner of the Kentucky State Police (KSP) about his agency's mission and role in public safety, the Commissioner of Public Health in the Cabinet for Health and Family Services on health and medical disaster planning, the Executive Director of the Office of Homeland Security on his agency's programs and grant funding, and the Adjutant General on the National Guard's assistance during local and national emergencies.

The Commissioner of KSP provided information about the mission of the state police, focusing on education and enforcement. There are currently 950 sworn troopers, fewer than in 1978. The largest issues that KSP is facing are recruiting and retaining qualified people and dealing with the increased burden of fuel costs for an agency covering the entire state. KSP can only train and house about 90 recruits at one time with the existing facility, which is antiquated and in poor condition. There is a high attrition rate of about 15 percent. During 2008, KSP had 127 staff eligible to retire, but the agency was not sure if it would be able to having a recruiting class due to budget cuts and cost increases. The increasing costs associated with gasoline prices are a major problem for the agency, particularly with an aging fleet that is not particularly fuel

efficient. The Commissioner wants to upgrade the fleet as soon as the agency's budget allows. Each penny rise in fuel prices costs the KSP $15,000 to run the fleet. KSP is trying to find ways to continue fulfilling its enforcement mission while adjusting behaviors to lower fuel consumption. For example, the agency is using checkpoints more frequently rather than monitoring speed zones.

The Commissioner of KSP expressed excitement for a new statute that allows troopers to obtain DNA swabs of suspects that can be run through a national database. Kentucky was one of the last states to broaden testing. However, the commissioner did note that KSP needs funding for approximately 62,000 more swabs. Each swab kit costs $3.72, but this cost does not include testing the kits, which costs several hundred dollars.

The Commissioner told the committee about various programs that are useful to the troopers. For example, troopers' vehicles have been outfitted with mobile data computers that allow the troopers to search databases while they are on patrol. This resource has increased vehicle theft recovery by 20 percent.

The Commissioner of Public Health in the Cabinet for Health and Family Services used the example of the 2007 Bullitt County train derailment as an example of the agency's role in health and medical disaster planning and response. The derailment caused a large fire, the chemicals involved in the fire were at first unknown, and a plume of smoke threatened the surrounding area and entered the flight path of Louisville International Airport. Responders developed respiratory symptoms, and the Department for Public Health was asked to provide nebulizers to help these individuals breathe. About 500 people were displaced from their homes and several shelters were opened. The Commissioner noted that his agency does not run the shelters, but it supported the process of opening the shelters and making sure necessary personnel and equipment were available to assist individuals in need. He stressed that these kinds of events are team efforts between local and state emergency management, health care, and law enforcement personnel. Because of the system in place, everyone knows their role and there is no duplication or wasted effort. His office and others help to provide training to local groups, including civic and faith-based organization that can easily organize and assist in times of emergencies.

The Executive Director of the Kentucky Office of Homeland Security (KOHS) briefed the committee on the responsibilities of his office and the federal grants that the agency awards and administers. KOHS has responsibility for counter-terrorism assessments and preparedness, grant management, public information and education, intelligence analysis support, community readiness, and first responder training and support. The agency participates in the fusion center and addresses issues with communications interoperability.

The Executive Director stated that KOHS administers flow-through grants from the federal Department of Homeland Security, including the Urban Areas Security Initiative, Emergency Management Performance Grants, and the Metropolitan Medical Response System. For one-time only grants, he stated that the largest part of the Public Safety Interoperable Communications money goes to the Kentucky State Police for communications towers and related equipment. This year, KOHS received 244 applications for grant awards from 95

counties, for a total request of $66 million. The agency was able to provide partial funding for 84 counties. As for discretionary grants, an independent volunteer group of professionals reviews all requests so that there is fairness in the process.

The Adjutant General informed the committee about the deployment of the Kentucky National Guard to other areas of the country to assist in hurricane support efforts in the aftermaths of Hurricanes Gustav and Ike, including assistance in Kentucky due to wind damage from Hurricane Ike. The Director of the Division of Emergency Management provided additional information about the status of Federal Emergency Management Agency (FEMA) funds for Kentucky counties due to wind and related damage. The state documented $17.1 million in damages, well above Kentucky's threshold for FEMA relief, which is just over $5 million. National Guardsmen were added to assist in preparing paperwork for damage assessment and responding to natural disasters and emergencies.

Report of the 2008
Interim Joint Committee on State Government

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Rep. Johnny Bell
Rep. Kevin D. Bratcher
Rep. Dwight D. Butler
Rep. Larry Clark
Rep. Leslie Combs
Rep. Tim Couch
Rep. Will Coursey
Rep. Tim Firkins
Rep. Joseph M. Fischer
Rep. Danny R. Ford
Rep. Jim Glenn
Rep. Derrick Graham
Rep. Mike Harmon
Rep. Melvin B. Henley
Rep. Jimmy Higdon
Rep. Charlie Hoffman
Rep. Jimmie Lee
Rep. Mary Lou Marzian
Rep. Lonnie Napier
Rep. Sannie Overly
Rep. Darryl T. Owens
Rep. Tanya G. Pullin
Rep. Tom Riner
Rep. Carl Rollins II
Rep. Sal Santoro
Rep. John Will Stacy
Rep. Kathy W. Stein
Rep. Greg Stumbo
Rep. Tommy Thompson
Rep. John Tilley
Rep. John Vincent
Rep. Jim Wayne
Rep. Alecia Webb-Edgington
Rep. Rob Wilkey
Rep. Brent Yonts

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

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

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

Sen. Julian M. Carroll
Sen. Carroll Gibson
Sen. Ernie Harris
Sen. Alice Forgy Kerr
Sen. Elizabeth Tori
Sen. Johnny Ray Turner
Sen. Ed Worley
Rep. Kevin D. Bratcher
Rep. Larry Clark
Rep. Tim Firkins
Rep. Joseph M. Fischer
Rep. Mike Harmon
Rep. Melvin B. Henley
Rep. Mary Lou Marzian
Rep. John Will Stacy
Rep. Kathy W. Stein
Rep. Greg Stumbo
Rep. Rob Wilkey

Rep. Mike Cherry, ex officio

Interim Joint Committee on State Government

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

Committee Activity

The Interim Joint Committee on State Government held four meetings during the 2008 Interim. The committee focused on public employee retirement, executive reorganization, the Kentucky Employees Health Plan, assessment of storm water fees, e-transparency in Kentucky State Government, Kentucky Personnel Board activities, and certified public management programs.

At its first meeting, in August, the committee received a status report from the Kentucky Public Pension Working Group, which was created in May 2008 by Executive Order 2008-460. Reports were given by representatives of the working group's six subcommittees: Investments, Defined Contributions, Securities Litigation, State Funding, CERS Reorganization, and Healthcare. The Executive Director of Kentucky Retirement Systems discussed implementation of House Bill 1, retirement legislation enacted in the 2008 Extraordinary Session. The committee also reviewed Executive Order 2008-507, which reorganized the Environmental and Public Protection Cabinet into three separate cabinets: the Public Protection Cabinet, the Energy and Environment Cabinet, and the Labor Cabinet.

In September, officials from two unincorporated cities in northern Kentucky and representatives of Sanitation District 1 discussed their respective positions relating to the assessment of storm water fees. The Director of the Division of Water in the Energy and Environment Cabinet gave a presentation on storm water permitting issues for municipal separate storm sewer systems and spoke about the federal storm water program in general. The committee also received a briefing on the 2009 Kentucky Employees Health Plan from the Deputy Secretary of the Personnel Cabinet and the Commissioner of the Cabinet's Department of Employee Insurance.

At the October meeting, a Finance and Administration Cabinet official and the General Manager of Kentucky.gov presented a status report on the Governor's E-Transparency Task Force, which was created by executive order in June 2008. They explained that the primary purpose of the task force is to provide a "one-stop shop" whereby citizens can access information about nonconfidential monetary transactions of the Commonwealth. They also reviewed elements of the test pages for "Kentucky's Open Door," the full-service, user-friendly Web site that is scheduled to be launched in January 2009.

The Executive Director and General Counsel of the Kentucky Personnel Board and the Board Chair reported on activities of the board for fiscal year 2008.

The Past President of the Kentucky Society of Certified Public Managers discussed the certified public manager program and the training opportunities available through the program. She explained that the society's goals are to be an accepted management resource for Kentucky state government, advertise the value of the certified public manager program, and promote utilization of the society as a valuable enhancement to state agencies.

At the final meeting, in November, the committee met again with representatives of the Governor's Public Pension Working Group to hear proposed recommendations for pension reform. The Secretary of the Finance and Administration Cabinet, who chaired the working group, led the discussion. He noted that there was clear consensus that action needed to be taken immediately regarding pension fund investments. Representatives of the six subcommittees gave overviews of their proposals. Also, the Director of the Personnel Cabinet's Division of Employee Management briefed the committee regarding state employee turnover and retirements.

Subcommittee Activity

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

The Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs held three meetings during the 2008 Interim. The task force heard reports on the 2008 elections and discussed Kentucky laws relating to early voting.

According to testimony, the 2008 primary and general elections went relatively smoothly. The Secretary of State and the Executive Director of the State Board of Elections reported that voters registered and cast ballots in record numbers. Paper ballots were available to 40 percent of Kentuckians because an increasing number of counties have acquired optical-scan equipment. The Secretary of State said his office has posted a video on its Web site instructing voters not to videotape the casting of votes.

The task force heard testimony about some problems that occurred during the primary and general elections. The Secretary of State said a rumor-control Web site had been established to counter unfounded rumors, including that a straight-ticket vote would not register a person's vote for a presidential candidate. Also, a high number of voter-registration cards were submitted very close to the time of the election, which made it difficult to eliminate duplicate registrations.

Two counties experienced particular problems during the general election, according to the Executive Director of the State Board of Elections and the Secretary of State. In one Kenton County district, an error in the programming of voting machines led to confusion, particularly regarding straight-ticket votes. In one precinct in Hardin County, poll workers opened a voting machine and removed ballots while voting was still under way. That action and other alleged irregularities will be investigated by a study group, according to the Secretary of State.

The task force also discussed the possibility of amending Kentucky law to expand opportunities for early voting. Current Kentucky law allows a person to vote before Election Day only if he or she has one of several excuses listed in the statutes. The task force discussed a proposal to allow any voter to cast a vote during a designated time period before Election Day. The Secretary of State and the Legal Counsel for the State Board of Elections listed arguments for and against this change. On one hand, early voting might fit an increasingly mobile lifestyle. People travel more than they used to, and many workers' schedules do not make it easy to get to the polls. On the other hand, early voting might lead to an increase in voter fraud, and early voters might not have access to all the information that is available to voters who wait until Election Day to cast their ballots. Some of the arguments against early voting involve money and resources. Representatives of the Kentucky County Clerks Association testified that early voting would increase the workload on county clerks and require them to employ more poll workers and acquire more voting machines.

The task force also discussed a possible amendment to the Kentucky Constitution regarding early voting. According to an Assistant Attorney General and Counsel for the State Board of Elections, Sections 147 and 148 of the Constitution can be interpreted to mean that citizens may vote only on Election Day unless they will be absent from the state or from their home counties on that day. Those sections of the Constitution might need to be amended to allow early voting.

Report of the 2008
Interim Joint Committee on Transportation

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

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

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

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Transportation

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

Committee Activity

The Interim Joint Committee on Transportation met six times during the 2008 Interim.

At its first meeting, the Transportation Cabinet gave an update on the third quarter Road Fund receipts for FY 2008. There was a 3.9 percent increase in receipts in the third quarter of 2008 over the same period of 2007. For FY 2007, motor fuels receipts were $512.1 million, and motor vehicle usage receipts were $373.1 million. For FY 2008, motor fuels receipts were $556.3 million, and motor vehicle usage receipts were $371.9 million.

The actual growth in road fund revenues for FY 2007 over the previous year was 5.2 percent. In January, the Consensus Forecasting Group estimated road fund growth of 4.6 percent in FY 2008; 3.3 percent in FY 2009; and 6.1 percent by 2010. These growth rates are attributable to the higher cost of gasoline. While revenues are up, actual miles traveled are down. It is estimated that drivers nationwide traveled 11 million fewer miles less in February 2008 than they did in January 2008.

Due to the higher gasoline prices, Kentucky's gasoline tax has increased from 16.4 cents per gallon (cpg) in FY 2004 to 21.0 cpg effective FY 2008. Projected increases in FY 2009 and FY 2010 are expected to bring the gasoline tax to 22.5 cpg and 24.1 cpg, respectively. Compared to Kentucky, Illinois, Indiana, Ohio, and West Virginia have higher gasoline tax rates; Missouri, Tennessee, and Virginia have lower rates.

The cabinet presented a new model to reflect future road fund cash balances. The May 2008 estimated road fund balance was approximately $80 million higher under the new model ($455.4 million) than under the November 2007 model ($375 million). Under the new model, the road fund will decrease in December 2009 to a balance of $15.6 million.

The Transportation Cabinet's Chief Highway Engineer discussed the criteria for erecting traffic signals and traffic signal operations. There are eight recognized criteria factors the cabinet uses to decide whether a traffic signal is warranted: traffic over an 8-hour period; traffic over a 4-hour period; traffic during the daytime peak hour; pedestrian consideration; school crossing considerations; coordinated signal traffic with surrounding traffic signals; crash/accident experiences; and roadway network (volume at two roads coming together).

A committee member discussed the problem of motorcycles not weighing enough to trigger a traffic light change. The cabinet is aware of the problem, and quadripole loops were being installed into roadways at signal crossings to correct the problem. The cabinet cautioned that it will take considerable time to upgrade all intersections.

The Director and Assistant Director of ITNBluegrass discussed their organization, ITNAmerica, and the enacted 2008 House Bill 204. ITNAmerica is a nationwide, non-profit organization with a mission to assist communities in providing a dignified transportation alternative for seniors and the visually impaired. The first ITN local affiliate was established in Portland, Maine, in 1995. The Bluegrass affiliate is the first ITN affiliate in the Ohio Valley. The cost of transportation by an ITNBluegrass member is about 40 percent cheaper than a taxi cab.

The committee's second meeting was held at the Adron Doran Center at Morehead State University local county needs. The County Judge/Executive for Bath County said there is little money left for blacktopping. Some Bath County roads are becoming dangerous, and the Transportation Cabinet should inspect the safety of Satterfield Lane Bridge.

The Fleming County Judge/Executive said 70 miles of county roads there are still gravel. The KY 57 extension is important because without it large trucks have no alternative but to drive through downtown Flemingsburg. He also noted that another major concern to all county budgets is the housing of state inmates in county jails. The state does not reimburse for housing these inmates, and while this situation is not transportation related, the expense keeps counties from maintaining and blacktopping roads.

The Lewis County Judge/Executive said several recent storms have damaged roads, with an estimated repair cost of $880,000. Of the 350 road miles in Lewis County, 140 are gravel. He also said Straight Fork Road is expected to cost approximately $2 million to keep it from falling into the creek, which would isolate 50 homes from access to the highway system. Lewis County does not have the $2 million needed for this project or the $880,000 for storm damage. In order to pay for repairs, the county is looking to reduce county expenses, such as a shorter work weeks for employees at the county garage. He will look to the county's payroll for savings before asking Lewis County residents to increase county taxes.

The Rowan County Judge/Executive said 40 county miles are gravel, and a number of the current blacktopped roads will need to be reverted back to gravel because the county does not have the funds to maintain them. A major concern is Route 377, where more fatalities have occurred than on all other Rowan County roads combined.

The Transportation Cabinet's State Highway Engineer for District 9 and the Deputy State Highway Engineer discussed local construction projects. The state's Six-Year Highway Plan reflects right-of-way funds for the KY 57 Bypass in Fleming County of approximately $1 million and utility funds of $210,000 in FY 2010, and construction funds of $5.4 million in FY 2012, totaling nearly $6.7 million for the project.

Route 377 in Rowan County is in the cabinet's Six-Year Highway Plan, with $243,330 for planning, $1.2 million for design, and $4.4 million for right-of-way, all in FY 2010, totaling

nearly $5.9 million for the project. The bridge on Satterfield Lane in Bath County and the Straight Fork Road in Lewis County are county roads and are not part of the highway plan, but the cabinet will review both situations. The cabinet understood concerns for more blacktopping, but the state is in the same dilemma as the counties because of skyrocketing costs for blacktop.

The committee urged the Kentucky congressional delegation to continue the Delta Queen's exemption to the Safety of Life at Sea Act.

A spokesperson for Operation Lifesaver said the organization encourages better engineering for crossings, enforcement of crossing safety, and education about rail safety. It began in Idaho in 1972 to track rail crossing safely and is now in 49 states and the District of Columbia and seven countries.

A spokesperson for CSX Railroad Community Affairs and Safety shared the railroad's experience with education, engineering, and enforcement. The railroad provides funding for the state program, making sure that the money is spent in areas where there is a concentration of crashes or trespasser incidents. There is countywide training with bus drivers to make sure they are familiar with the laws and to heighten rail crossing awareness. Special training is provided for fire departments, emergency medical services and 911 systems, and police officers. Railroads are mandated by the Federal Railroad Administration each year to reduce the number of crossings nationwide. The railroad works with Operation Lifesaver and the state's Department of Transportation to recognize crossings that are prime targets for closure. In 2003, there were 91 grade crossing collisions in Kentucky; in 2007, there were 75, a 17 percent reduction.

CSX said that trespasser deaths result when a person is walking anywhere on railroad property, not necessarily at a grade crossing. When an incident occurs at a crossing, it is classified as a grade crossing collision or fatality. The Federal Railroad Administration mandates that the railroad install crossbucks at each public crossing. The state's Department of Transportation is the agency that determines the particular warning devices for public grade crossings.

The committee considered and approved Executive Order 2008-529, reorganizing the Transportation Cabinet. The intent of the organization plan was to bring together uniformity and streamlining of operations in light of the current budget; increase effectiveness and efficiency in performance; improve mobility and access in safety, reducing the number of transportation-related fatalities; align program tasks to equitably distribute workloads and improve reporting lines; create a central point of contact for development and administration of policy; and promote communication with the public.

The committee reviewed but did not approve Executive Order 2008-502. Committee members raised concerns that the order changed the composition of the Motor Vehicle Commission, which is defined by statute.

The committee conducted one meeting at the RiverPark Center in Owensboro. The Mayor said that Owensboro is the third largest city in the state, and its airport has the second longest runway. Owensboro does not have a state university or an interstate within its

boundaries. He discussed the city's riverfront development efforts and presented a slideshow of projects the city envisions developing.

A Daviess County Commissioner said there are 550 miles of county roads and 342 miles of state roads in the county. He noted five major projects that need fiscal support: building the roundabout at KY 56 and KY 81; widening Southtown Blvd. to four lanes between Frederica and Carter Roads; renovating Glover Cary Bridge; Extending Fairview Drive 5 miles, from dead-end at the Downs subdivision to Pleasant Valley Road; and widening KY 54 from mile 4.5 to 8.0.

The Commissioner stated that Owensboro is currently developing a downtown comprehensive plan for future residential, commercial, and public development. This plan will include a new hotel and convention/multipurpose center, and the possibility of an outdoor events center. The city is providing funds for the planning process. He cautioned that traffic flow and traffic patterns must be addressed in the revitalization plan.

The President for the Greater Owensboro Chamber of Commerce commented on proposed transportation improvements for Interstate 69, Interstate 66, and US 60 East Bypass. A spokesperson for the Owensboro Medical Health System discussed the need for the US 60 Bypass project in East Daviess County. He said that the Owensboro Medical Health System decided in 2007 to move forward with a $350 million new hospital construction project along the proposed US 60 bypass extension corridor.

The Chief Highway Engineer and the District Engineer for District 2 discussed a controversy over the distribution of truck registration fees to counties under the revenue-sharing provisions of KRS 47.020. This statute appropriates 30 percent of all commercial truck registration fees to be distributed equally among all 120 counties. In August, counties were notified that their share of these funds were being reduced due to the passage of 2006 HB 535, which eliminated the 6,000-pound commercial vehicle plate and reduced the state fee for the 10,000 plate from $24 to $12. After meeting with Legislative Research Commission staff, the cabinet undertook an in-depth review of the reasons for the reduced county share. According to the cabinet review, the total county share declined $7.6 million between FY 2007 and FY 2008, a reduction of $63,329 per county. This reduction can be attributed to four factors:

1. **IRP/*Ad Valorem* Taxes**. In FY 2007, the cabinet began collecting *ad valorem* taxes on International Registration Plan (IRP) vehicles—vehicles that travel in more than one state. The *ad valorem* collections were incorrectly included in the revenue sharing calculation in FY 07, resulting in a $3 million overpayment to counties, which was recouped this year at a cost of $24,490 to each county (38.7 percent of total reduction).
2. **A decline in IRP Registrations**. Due to the economic downturn, IRP collections were down in FY 2007. The total county share of this decline was $2.15 million, or $17,920 per county (28.3 percent).
3. **Commercial Vehicle Coding**. The elimination of the 6,000-pound commercial vehicle plate exposed a problem in that some noncommercial vehicles with 6,000 pound plates were being coded as commercial vehicles and the resulting registration fees were being improperly revenue shared. This error amounted to a reduction in the total county share of $2.2 million, or $18,668 per county (29.4 percent).

4. **HB 535**. The impact of HB 535 reduced the total county share by $216,000, or $1,800 per county (2.8 percent).

The cabinet also discussed the highway projects in Highway District 2. With regard to US 60, it was the cabinet's position to construct the western portion of the bypass, which offers access to the new hospital facility, as quickly as possible. There are still major hurdles to cross before I-66 or I-69 can be constructed, including federal and state appropriations and upgrading parkways to meet federal interstate standards. The I-66 expansion program has not been completed at this date.

On October 7, 2008, the committee paused for a moment of silence for State Representative Larry Belcher, a committee member, who was killed in an automobile accident the night before.

The committee heard testimony on the registration of low-speed electric and alternative vehicles by the Transportation Cabinet. The National Highway Traffic Safety Administration (NHTSA) defines low-speed vehicles as any 4-wheeled motor vehicle whose top speed is greater than 20 mph but not greater than 25 mph. Several states have adopted the NHTSA standards, which also require head and tail lamps, stop lamps, front and rear turn signals, red reflex reflectors, exterior/internal mirrors, parking brake, windshield, vehicle identification number, and seatbelts. Forty states have statutory authority for low-speed vehicles to operate on certain types of roads, and 32 states limit operation to roads with speed limits not exceeding 35 mph. Most of the states make explicit reference to these low-speed vehicles having to comply with federal standards. Motor vehicles such as golf carts could pose difficulties when drafting legislation for low-speed motor vehicles.

The cabinet stated that 2008 Senate Bill 93 defined "golf carts" as having a designed speed capable of not more than 35 mph, restricted their operation to roadways within 5 road miles of an entrance to a golf course, and increased their wheel requirements to a minimum of four. He reminded the committee members that golf carts are not currently required to be titled or registered. Committee members raised several questions regarding golf carts operating on specified roadways where there were no golf courses within the regulatory 5 road mile radius. Some cities, without golf courses have adopted ordinances to allow golf carts on city roadways. The cabinet viewed these city ordinances to be in violation of state statutes that allow golf carts to travel only on specified roadways.

The Executive Director for Independence Place, Inc. and the Vice President for Safety & Harmonization with Alliance Automotive Manufacturers (AAM) discussed hybrid vehicle warning systems. The Executive Director stated that most visually impaired individuals function by processing sounds. Because hybrids are so quiet, they cause safety issues not only to the blind population but to others. This problem has been studied by the University of California. The AAM official stated that automotive industries worldwide spent decades researching ways to offer quieter vehicles. The industry responded to escalating fuel prices by developing the hybrid automobile. The industry now finds itself researching ways to add sound to hybrids.

The Transportation Cabinet testified that the percentage of interstate pavements in fair or better condition has decreased in recent years; however, the parkway system roads have improved. He said that pavements generally last 12 to 14 years between resurfacing treatments.

With the price of asphalt increasing, the cabinet used 1¼ inches of asphalt for resurfacing last year as opposed to the 1½ inches used in past years. While the cabinet saved about one-sixth of the tonnage used by the state, the increased cost of asphalt still raised the overall price the state paid to asphalt roads. Asphalt costs about $70 per ton in competitive areas and as much as $80 per ton in rural areas where there is no competition.

Transportation officials stated that driver's licenses have become the most recognized form of identification. Since 9/11, the Transportation Cabinet has been working on ways to improve the security of issuing driver's licenses. More than 1.2 million licenses were issued in 2008. Two branches of state government are responsible for driver's licenses: the Judicial Branch through the circuit clerks and the Executive Branch through the Kentucky State Police and the Kentucky Transportation Cabinet. Both branches will meet to discuss the best ways to streamline the process of issuing driver's licenses.

A legislator voiced his concern with the state not routinely giving eye examinations during the driver license renewal process. Transportation Cabinet officials stated that it is mostly due to money. There are approximately 80 examiners that give about 280,000 exams each year throughout the state. Thirteen sites offer examiners 4 or 5 days a week, while the remaining examiners travel to the remaining counties on specific days of the week to give driver examinations. If eye exams became mandatory, additional personnel would have to be hired in all counties.

The committee reviewed and approved 601 KAR 13:070, Implementation of No-Pass, No Drive Statutes, promulgated by the Transportation Cabinet.

A private citizen from Harrodsburg discussed the safety perils of US 68 in Mercer County. He noted a number of fatal and injury accidents that occur on US 68 and asked that something be done to eliminate this hazardous section. He stated that Transportation Cabinet officials met with county officials earlier in the year to discuss the problem and that the only solution was to reroute tractor trailer traffic from US 68. He complained that no signs had yet been erected. The State Highway Engineer with the Transportation Cabinet stated that the cabinet was aware of the hazards on US 68 in Mercer County. There is very little that can be done not only because of how the road curves around hillsides but also because of the state's financial restraints. Signs redirecting tractor trailer traffic from that highway have been ordered but had yet to be received.

Co-hair Collins congratulated Co-chair Guthrie upon his election to the U.S. House of Representatives. Co-chair Collins also honored retiring members Senators Dick Roeding and Richard Sanders; and Representatives Scott Alexander, Russ Mobley, and John Vincent.

The committee passed a memorial resolution in honor of the late Rep. Larry Belcher.

Report of the 2008
Administrative Regulation Review Subcommittee

Sen. Richard "Dick" Roeding, Co-Chair
Rep. Robert R. Damron, Co-Chair

Sen. Alice Kerr	Rep. Danny Ford
Sen. Joey Pendleton	Rep. Jimmie Lee
Sen. Gary Tapp	Rep. Ron Weston

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

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Administrative Regulation Review Subcommittee

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

Subcommittee Activity

KRS Chapter 13A established the subcommittee as a permanent subcommittee of the Legislative Research Commission (LRC). 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 LRC for a second review by the legislative subcommittee with jurisdiction over the subject matter.

During the period January 2008 through November 15, 2008, executive branch agencies filed 68 emergency administrative regulations and 461 ordinary administrative regulations. Of the ordinary administrative regulations filed, 76 were new, 326 were amendments to existing administrative regulations, and 59 were amended after comments.

The subcommittee reviewed all the ordinary administrative regulations that were not withdrawn or expired prior to the date of its monthly subcommittee meetings, in accordance with the provisions of KRS Chapter 13A. Of those ordinary administrative regulations reviewed, one was found deficient (after the finding of deficiency, the agency withdrew the administrative regulation; therefore, no further action by the full General Assembly is required), 316 were amended to conform with KRS Chapter 13A and other appropriate statutes, and 60 were approved as submitted by the agency. Additionally, 4 administrative regulations expired (for failure to meet statutory deadlines), and a total of 25 administrative regulations were withdrawn by the agency during this period. (These totals do not include the 167 administrative regulations scheduled for review during the subcommittee's December 2008 or January 2009 meetings.)

In June, subcommittee staff presented "Practice Makes Perfect" as part of LRC's continuing legal education seminar. In September, the subcommittee staff and the regulations compiler conducted two training sessions for representatives of approximately 30 executive branch agencies, including the Finance and Administration Cabinet, the Energy and Environment Cabinet, the Personnel Cabinet, the Department of Education, the Cabinet for Health and Family Services, and LRC staff. The 3-hour training sessions focused on the administrative regulations process and the requirements for drafting and formatting administrative regulations.

Approximately 150 representatives of those agencies participated in this training along with 45 representatives from LRC staff. The same material was also presented informally on many different occasions to small groups of two to five persons from executive branch agencies as requested by the agencies.

In August 2008, LRC published the Administrative Regulations Service of Kentucky, which contains all administrative regulations in effect as of June 15 of that year. Also during this time period, subcommittee staff updated *The Kentucky Administrative Regulations Reference Manual*, Informational Bulletin No. 118. The manual was last published in 2001. The updated publication will be distributed to executive branch agencies in 2009 upon completion of the LRC editing and printing process and will include a new format with examples, frequently asked questions, special computer tips, and information about every aspect of the regulations process.

Report of the 2008
Capital Planning Advisory Board

Sen. Jack Westwood, Co-Chair
Rep. Larry Belcher, Co-Chair

Sen. David Boswell
Rep. Ron Crimm
David Buchta
James Deckard
Ben S. Fletcher
John Hicks
William H. Hintze, Jr.
Mary Lassiter
William H. May III
Jason M. Nemes
Edmund Sauer
Doug Teague
Laurel True
Garlan Vanhook

LRC Staff: Don Mullis, Nancy Rose Osborne, Shawn Bowen, and Jennifer Luttrell

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Capital Planning Advisory Board

Jurisdiction: The 1990 General Assembly established the Capital Planning Advisory Board of the Kentucky General Assembly, with members representing the 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 2008 Regular Session, the Capital Planning Advisory Board has held two meetings.

On July 8, 2008, the board convened at Northern Kentucky University (NKU). NKU representatives testified about the construction projects currently underway on the campus and invited members to participate in a short tour at the conclusion of the meeting. In addition, representatives from Murray State University, NKU, University of Kentucky, and the University of Louisville testified on the current status of and future needs related to student housing on their respective campuses. Board staff provided updates on capital projects related to actions of the 2008 General Assembly, including legislation based on board recommendations and capital projects authorized in the 2008-2010 biennial budget.

On September 23, 2008, the board met at the Capital Plaza Office Tower in Frankfort. The meeting focused on recommendations contained in a report on the condition of the Capital Plaza Complex (CPC) and how those recommendations could impact the long-range plan to house state agencies, the status of implementation of new laws passed in the 2008 session of the General Assembly, and approval of the Instructions for the 2010-2016 Statewide Capital Improvements Plan. Sherman Carter Barnhart Architects, consultants on the CPC report, the Commissioner of the Department for Facilities and Support Services, the Deputy Secretary of the Finance and Administration Cabinet, and representatives of the Council on Postsecondary Education discussed various recommendations.

Capital Projects and Bond Oversight Committee

Sen. Elizabeth Tori, Co-Chair
Rep. Mike Denham, Co-Chair

Sen. Tom Buford
Sen. Dan Seum
Sen. Jerry Rhoads

Rep. Robert Damron
Rep. Jim Wayne
Rep. Steven Rudy

LRC Staff: Nancy Rose Osborne, Shawn Bowen, Don Mullis, Kristi Culpepper, and Samantha Gange

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Capital Projects and Bond Oversight Committee

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

Committee Activity

As a statutory committee, the Capital Projects and Bond Oversight Committee meets monthly. This report covers committee activity between November 1, 2007, and October 31, 2008. The committee met 11 times in Frankfort in the Capitol Annex. The December 2007 meeting was held at the recently renovated State Office Building in Frankfort, with a facility tour afterward. The committee reviewed numerous agency reports and requests concerning capital projects and bond issues. A summary of those reviews follows.

Review of Unbudgeted Capital Projects

The committee approved eight unbudgeted capital projects pursuant to KRS 45.760(14), which permits a capital construction project to be authorized even though it is not listed in an enacted budget if at least 50 percent of the costs are from private or federal sources and if the project is presented to the committee for review. During the reporting period, procedures for unbudgeted postsecondary institution projects were clarified. The projects must be approved by the institution's governing board and then by the Council on Postsecondary Education or the Finance Cabinet, as appropriate, prior to submission to the committee.

Unbudgeted Projects Approved

Agency	Title of Project	Scope
Department of Military Affairs	Bluegrass Station Helipad and Taxiway Expansion	Federal $1,498,000
Department of Military Affairs	Joint Support Drug Center, Phase II	Federal $3,241,200
Department of Military Affairs	Thomson Hood Nursing Home Renovation	Federal $975,00 Restricted $525,000
Kentucky Horse Park	Museum Gallery	Private $7,000,000
Kentucky Higher Education Assistance Authority	Mobile Outreach Center Vehicle	Federal $300,000
Kentucky Community and Technical College System	Purchase Educational/Workforce Readiness Information Technology System	Federal $750,000
Western Kentucky University	Add club seating to Diddle Arena	Private $73,000
Department of Vehicle Enforcement	Purchase Mobile Command Center	Federal $266,400 Restricted $66,600

Review of Budgeted Capital Projects

Consolidation of budgeted capital projects were reported by the University of Kentucky for the Hospital Patient Care Facility (bed tower), a large, multiyear project that has received appropriations since the 2002-2004 budget. The revised project scope of $700 million comprises $450 million restricted funds and $250 million in agency bonds supported by hospital revenues. The university also reported consolidation of the Expand and Upgrade Livestock Disease Diagnostic Center project ($28,500,000 state bonds).

Requests for scope increases were made to address increased costs of construction materials or expand the scope of projects**.** The committee approved nine agency requests to increase the scope of authorized capital projects, using private, federal, or restricted (agency) funds. 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.

Scope Increases Approved

Agency	Project Title	Increase	New Scope
Kentucky Community and Technical College System	Construct Emerging Technology Center	$2,200,000	$18,718,000
Murray State University	Construct Public Safety Building	$300,000	$2,300,000
University of Louisville	Expand Trager Field Hockey Stadium	$980,000	$4,180,000
University of Louisville	Renovate and Purchase Home of the Innocents	$750,000	$8,781,000
University of Louisville	Health Sciences Center Research Campus Facility	$1,410,000	$136,290,000
University of Kentucky	Construct Student Health Facility	$1,000,000	$25,000,000
Eastern Kentucky University	Renovate Residence Hall (Clay Hall)	$250,000	$7,750,000
Western Kentucky University	Upgrade Steam Plant Air Quality System	$1,006,000	$3,686,100
Military Affairs	Bluegrass Station Helipad and Taxiway Expansion	$166,000	$1,664,000

Review of Allocations From the Statutory Capital Accounts

Emergency Repair, Maintenance, and Replacement Account allocations totaling $1,065,000 made by the Secretary of the Finance and Administration Cabinet were reviewed by the committee. In January 2008, a $786,000 allocation was made to assist the Department for Facilities and Support Services with the Reconfiguration of the Capitol Annex and moving costs associated with the relocation of executive branch agencies to other state-owned space. In April 2008, an allocation of $71,000 was made to fund the Kentucky Educational Television Roof/Wall Panel Installation project. In October 2008, allocations were reviewed for Roof Repair projects for the Department of Public Advocacy ($73,000) and for Chandler and Combs

Halls on the campus of Kentucky State University ($135,000). All emergency allocations are to be reported to the committee within 30 days.

General Oversight and Review Topics

Allocations from various program pools authorized by the budget bill were reported to the committee for capital projects costing more than $600,000 and equipment costing more than $200,000. Reports were also received under the University Major Items of Equipment Pool authorized in House Bill 380 (2006-2008 budget) and the Capital Renewal and Maintenance Pool authorized in House Bill 406 (2008-2010 budget). The committee also received two reports of revisions to the $60 million Parks Development Pool (2006-2008).

Quarterly Status Reports that are mandated by statute were received from the Finance Cabinet, the universities that manage their own capital construction programs (University of Kentucky, University of Louisville, Murray State University, Northern Kentucky University, and Western Kentucky University), and the Administrative Office of the Courts. Starting in 2008, these reports were posted to the committee's Web page.

The 2008-2014 Statewide Improvements Plan was discussed by the co-chairs of the Capital Planning Advisory Board in January 2008.

Selling naming rights for state-owned facilities, such as the Kentucky Horse Park Indoor Arena project were discussed. Executive branch officials reported there is no statutory limitation to the sale of naming rights for financial consideration and asked the Executive Branch Ethics Commission for its advice. Its Advisory Opinion (07-40) issued in December 2007 concluded that if there is an overriding public benefit and financial proposals are solicited pursuant to the Model Procurement Code, then the sale of naming rights is not prohibited. The commission did warn that it is a somewhat disturbing trend because it reflects an endorsement that will forever remain with the state agency.

Nonstate projects to be built on state property were reviewed. If the projects are to be built, operated, and maintained by the nonstate entity on state-owned land, the agency is to report such development. The committee discussed the question of whether state prevailing wage laws apply to projects built by nonstate entities on state property where state funds are not used to develop, maintain, or operate the project. In spring 2008, the Franklin Circuit Court ruled in a case relating to proposals by nonstate entities to build facilities on state park land under a long-term land lease executed by the state that prevailing wage law applies to such a project if intended for public use. The lease with the state qualifies as a contract for construction with a public authority.

In November 2007, the University of Louisville reported a long-term land lease for development of a 56-unit apartment complex. The tenant is the Louisville Scholar House.

In March 2008, the Finance and Administration Cabinet reported that the Department of Parks executed a long-term land lease with the national Hunter Jumper Association to construct a 17,500-square-foot office building at the Kentucky Horse Park in Lexington.

In August 2008, the University of Kentucky reported 10 long-term land leases executed over the last 12 years at its Coldstream Research Campus in Lexington.

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

The use of the design-build method, whereby design and construction services are procured together as a single contract, was reported by the Department of Military Affairs for two unheated storage building at the Shelbyville and Leitchfield Readiness Centers.

Under the construction management-at-risk method, a construction manager rather than a general contractor is used and is typically brought in early during the design phase to assist with cost estimates and scheduling. At some point in the process, the construction manager-at-risk takes the risk typically assumed by a general contractor for delivering the project on time and within budget. Universities reported the use of this delivery method for three projects: the University of Louisville Papa John Stadium, the University of Kentucky Livestock Disease Diagnostic Lab, and the Northern Kentucky University Center for Informatics.

Review of Bond-funded Loan/Grant Programs

Economic Development Bond Projects. The committee reviewed and approved four grants, representing $1,320,000 from the Economic Development Bond (EDB) pool, as summarized in the table below. This bond program makes grants (forgivable loans) to local governments to leverage against private investments for economic development in the Commonwealth. In return for assistance, companies are required to make commitments regarding job creation and/or job maintenance.

Economic Development Bond Projects Approved

Company	Grantee	Amount
PharMerica Institutional Pharmacy Service Inc.	Louisville/Jefferson County	$200,000
Sud-Chemie Inc.	Louisville/Jefferson County	$500,000
Matrix Engineering	City of Paducah	$500,000
Hendrickson USA LLC	Pulaski County Fiscal Court	$120,000

The committee also received a report of EDB job creation and job maintenance requirements for previously approved projects. Over a 5-year period, 21 grants were approved. Three projects failed to fully meet the job requirements and were required to make an annual payment to the county in which the jobs were not created or maintained.

The Cabinet for Economic Development's Department of Commercialization and Innovation reported four allocations totaling $1,969,000 from the New Economy High Tech Investment/Construction Pool. These forgivable loans are available for high-tech companies doing business in Kentucky.

Kentucky Infrastructure Authority Projects. The committee reviewed and approved various Kentucky Infrastructure Authority (KIA) loans and grants to local government entities for public infrastructure projects. The committee also monitored two policy shifts with respect to KIA loans, including KIA's increasing approval of nonstandard interest rates and KIA's submission of loan projects to the committee for its approval prior to the projects being bid.

Fund A (Federally Assisted Wastewater Revolving Loan Fund). The committee approved 12 loans totaling $196,804,823.

Fund A Loans Approved

Borrower	County	Amount
City of Alexandria	Campbell	$191,441
City of Murray	Calloway	$1,469,778
City of Richmond	Madison	$54,690,822
Regional Water Resource Agency	Daviess	$1,465,487
Paducah McCracken Joint Sewer Agency	McCracken	$1,600,000
City of Nicholasville	Jessamine	$7,494,225
Bowling Green Municipal Utilities	Warren	$43,307,280
Sanitation District No. 1	Boone, Kenton, Campbell	$50,000,000
City of Elizabethtown	Hardin	$21,192,000
City of Somerset	Pulaski	$8,477,690
Paducah McCracken Joint Sewer Agency	McCracken	$2,000,000
City of Hopkinsville	Christian	$4,916,100

A loan of $54,690,822 approved for the City of Richmond represents the largest loan in KIA history. Also approved was the transfer of a $3,086,982 loan from the City of Radcliff in Hardin County to Hardin County Water District #1 to acquire the city's sewer system.

Fund B (Infrastructure Revolving Fund). Sixteen loans totaling $14,268,154 were approved.

Fund B Loans Approved

Borrower	County	Amount
City of Burgin	Mercer	$50,000
Prestonburg City Utility Commission	Floyd	$2,700,000
Hopkinsville Electric and Energy Net	Christian	$3,000,000
Marion County Water District	Marion	$340,000
City of Williamsburg	Whitley	$400,000
Logan-Todd Regional Water Commission	Logan, Todd	$400,000
Electric Plant Board of the City of Glasgow	Barren	$1,100,000
City of Lancaster	Garrard	$490,000
Whitley County Water District	Whitley	$548,000
Whitley County Water District	Whitley	$300,000
City of Hindman	Knott	$500,000
City of Walton	Boone	$1,000,000
City of Louisa	Lawrence	$1,000,000
City of Carrollton	Carroll	$750,000
Graves County Water District	Graves	$849,154
Prestonburg City's Utility Commission	Floyd	$841,000

The committee also approved the assumption of two outstanding Fund B loans totaling $671,451 for the Fancy Farm Water District by the Graves County Water District to reflect the systems' merger.

Fund B1 (Infrastructure Revolving Fund—Planning). A grant of $373,900 was approved for the Morehead Utility Plant Board in Rowan County for the construction of a pump station.

2020 Program (Sub-account of Fund B). The committee approved a $500,000 grant to the Graves County Water District to retire debt associated with the distressed South Graves Water District in anticipation of the systems' merger.

Fund C (Governmental Agencies Program Loan Fund). The committee approved four loans totaling $8,706,203.

Fund C Loans Approved

Borrower	County	Amount
Southeast Daviess County Water District	Daviess	$1,014,995
West Daviess County Water District	Daviess	$1,173,708
Northern Kentucky Water District	Kenton, Campbell	$6,000,000
City of Union	Boone	$517,500

Fund F (Federally Assisted Drinking Water Revolving Loan Fund). Sixteen loans were approved.

Fund F Loans Approved

Borrower	County	Amount
City of Richmond	Madison	$4,000,000
Letcher County Water and Sewer District	Letcher	$781,000
Madison County Utilities District	Madison	$1,004,560
Breathitt County Water District	Breathitt	$1,261,000
City of Nicholasville	Jessamine	$8,000,000
City of Hardinsburg	Breckinridge	$1,999,250
Bullock Pen Water District	Grant, Kenton	$2,192,700
City of Berea	Madison	$4,000,000
City of Manchester	Clay	$1,500,000
Frankfort Electric and Water Plant Board	Franklin	$6,891,000
Meade County Water District	Meade	$1,950,949
Western Fleming Water District	Fleming	$2,518,000
Hopkinsville Water Environment Authority	Christian	$4,000,000
Northern Kentucky Water District	Kenton	$4,000,000
Ohio County Water District	Ohio	$3,000,000
City of Centertown	Ohio	$2,101,654

Coal/Noncoal Projects. Pursuant to KRS 224A, the committee reviewed various grants authorized by the 2003, 2005, 2006, and 2008 General Assemblies prior to KIA entering into assistance agreements with local state entities.

The 2003 General Assembly authorized 103 line-item projects in coal-producing counties totaling $54,861,998 and 164 line-item projects in tobacco-producing counties totaling $59,071,343. In this reporting period, the committee reviewed three grants for tobacco counties totaling $1.6 million.

The 2005 General Assembly authorized 193 line-item projects in coal counties totaling $79,285,220 and 306 line-item projects in tobacco counties totaling $120,485,220. In this reporting period, the committee reviewed six grants from coal counties totaling $988,888 and 10 grants from tobacco counties totaling $3,771,135.

The 2005 General Assembly authorized more bond funds for water and sewer projects than the total amount of line-item grants for these projects in the 2004-2006 budget. The amount by which bond funds exceeded total line-items was $604,040 for coal counties and $5,339,780 for tobacco counties. The Office of the State Budget Director advised KIA that these "unobligated bond pool" funds may be allocated by the KIA Board of Directors to water and sewer projects at the board's discretion. The committee approved two grants for coal counties totaling $604,040 and six grants for tobacco counties totaling $1,915,000 from the unobligated bond pool.

The 2006 General Assembly authorized 210 line-item projects for coal counties totaling $100,955,072 and 349 line-item projects for noncoal counties totaling $151,250,000. In this reporting period, the committee reviewed 28 grants for coal counties totaling $10,260,301 and 69 for noncoal counties totaling $24,823,735.

The 2008 General Assembly authorized 163 line-item projects for coal counties totaling $79,240,000 and 435 line-item projects for noncoal counties totaling $160,584,650. In this reporting period, the committee reviewed one project in a noncoal county for $400,000.

Review of Bond Issues and Financing Agreements

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

Kentucky Asset/Liability Commission (ALCo). Since its establishment in 1997, ALCo has issued Tax and Revenue Anticipation Notes (TRANs) in most fiscal years. TRANs are issued to manage the cash flow of the general fund by using tax-exempt sources of funds to meet the state's payment obligations. For FY 2009, the amount of gross proceeds from the sale of TRANs was $404,716,000.

The committee continued to review debt issued under ALCo's General, Agency, and Road Fund Project Notes programs. These programs provide interim financing across budget cycles. In November 2007, the committee approved increasing the total dollar amount of projects included in the 2005 ALCo General Fund Project Notes program to $1.4 billion. Four tranches of project notes have been issued under this program, but all of the project notes have been refunded by subsequent bond issues by the State Property and Buildings Commission.

The committee approved two issues of Agency Fund-supported project notes during the reporting period, including $14,025,000 for the Kentucky River Authority to provide interim financing for the Kentucky River Locks and Dams Maintenance and Renovations Pool as authorized in the 2006-2008 budget and $80,245,000 University of Kentucky General Receipts Project Notes to complete the $150 million of Agency Bonds authorized in the 2006-2008 budget for hospital improvements.

The committee reviewed a $50 million tranche of Road Fund-supported project notes. There are $200 million of Road Fund-supported project notes outstanding.

The committee receives semiannual reports from ALCo explaining the commission's coordination of the state's debt and investment strategies. According to the most recent report, as of June 30, 2008, Kentucky's appropriation-supported debt issued by the State Property and Buildings Commission continues to be rated Aa3 by Moody's Investors Service, A+ by Standard and Poor's, and AA- by Fitch Ratings. In April 2008, both Moody's and Fitch revised their outlooks on the state's debt to negative. Standard and Poor's maintained its positive outlook on the state's debt.

State Property and Buildings Commission. The committee approved three bond issues totaling $873,637,498 (gross proceeds) providing permanent, general fund-supported financing for projects authorized in the current and previous budgets.

The committee also approved two Agency Fund supported bond issues: $15,870,816 (gross proceeds) to convert the ALCo project notes issued for the Kentucky River Authority to permanent financing and $4,975,000 to upgrade facilities at Bluegrass Station on behalf of the Department of Military Affairs.

Turnpike Authority of Kentucky. The committee reviewed one bond issue of $201,695,036 (gross proceeds) to provide permanent financing for highway projects as issued in the 2006-2008 budget.

Postsecondary Institutions. The committee approved four bond issues for postsecondary institutions totaling $153,300,000 (gross proceeds). The bond issues approved were Morehead State University $11,875,000; University of Kentucky $36,760,000; Northern Kentucky University $19,465,000; and University of Louisville $85,200,000.

The committee also reviewed $72 million in conduit bonds issued by the Louisville Metro Government on behalf of the University of Louisville for renovations at the University of Louisville Papa John's Stadium.

Kentucky Economic Development Finance Authority (KEDFA). In KEDFA issues, the state is a conduit issuer and, as such, has no legal or moral obligation for repayment of the debt. As a conduit, the bonds are issued for the benefit of the developer, but the developer has full responsibility for repayment of the bonds.

The committee approved seven conduit bond issues during the reporting period, as summarized in the table below. Proceeds from the Louisville Arena Authority bonds will finance the construction of an arena in downtown Louisville that will be managed by the Kentucky State Fair Board. The University of Louisville's basketball programs will be the facility's primary tenants.

KEDFA Conduit Bond Issues Approved

Conduit Borrower	Amount
Christian Care Communities	$14,850,000
Goodwill Industries of Kentucky	$10,000,000
Retirement Housing Foundation	$15,735,000
Easter Seal Society	$42,925,000
King's Daughters Medical Center	$146,852,131
Republic Services	$18,025,000
Louisville Arena Authority	$349,218,518

The committee approved a $118,130,000 KEDFA conduit bond issue for the Bluegrass Equine and Tourism Foundation to construct a hotel on the grounds of the Kentucky Horse Park in anticipation of the 2010 Alltech FEI World Equestrian Games. The parties in this transaction

were unable to sell the bonds before an April 15, 2008, deadline imposed by the Finance and Administration Cabinet, so the bond issue did not move forward.

During the reporting period, the committee monitored KEDFA's progress in addressing outstanding conduit bond issues affected by the financial crisis. Some outstanding bond issues were converted from auction rate securities to other interest rate modes, and some issues affected by the downgrades of specific monoline bond insurers were redeemed.

Kentucky Housing Corporation (KHC). In May 2007, the committee approved a modified approval process for the corporation whereby the committee gives the corporation approval for aggregate "not-to-exceed" amounts as opposed to on an issue-by-issue basis.

The committee continues to receive follow-up reports on individual issues after the bonds have been sold. During the reporting period, the committee approved $150 million in KHC single-family housing revenue bonds. The committee received follow-up reports for $149,270,000 in single-family housing revenue bonds.

The committee approved six multifamily conduit bond issues.

KHC Conduit Bond Issues Approved

Conduit Borrower	Project Location	Amount
City Wide Housing Project	Newport	$11,000,000
Overlook Terraces Project	Louisville	$10,000,000
Alco Properties	Georgetown, Stanford, Munfordville	$4,455,000
Partridge Point Apartments	Louisville	$5,750,000
Watterson Lakeview Project	Louisville	$6,170,000
Grand Oaks Apartments	Lexington	$8,000.000

Kentucky Higher Education Student Loan Corporation (KHESLC). In January 2008, the committee approved the issuance of up to $1.35 billion of student loan revenue and refunding bonds to provide new money for student loans and convert $1.08 billion of KHESLC's outstanding auction rate securities (ARS) to variable rate demand obligations. The ARS market subsequently collapsed in February 2008 as investors avoided debt backed by income from portfolios of loans. KHESLC reported to the committee in July 2008 that, due to constraints in obtaining sufficient liquidity facilities from commercial banks, the corporation was only able to sell $300 million of bonds.

In September 2008, the committee approved a $50 million bond issue to provide short-term bridge financing allowing KHESLC to originate loans while details of a federal assistance plan for student loan programs were being resolved. These bonds were privately placed with the Commonwealth of Kentucky.

Review of State Leases

During the reporting period, the committee reviewed 37 state agency lease modifications. Ten of these lease modifications increased annual rental payments by a total of $44,292 to cover the cost of state agency-requested improvements, another 24 increased the amount of space leased, and three decreased the amount of leased space.

In February 2008, the committee approved the award by the Finance and Administration Cabinet of one renewal lease for office space for the Governor's Office in Washington, D.C. The renewal represented a $32,159 annual increase in leasing cost. The Governor's Office has leased space in the Hall of States in Washington, D.C. for many years. The space is used primarily by state officials conducting business in Washington; however, the Commonwealth also currently sublets a portion of this space to other tenants.

The committee approved four new leases for office space during the reporting period. Three leases were for divisions of the Cabinet for Health and family Services: the Commission for Children with Special Health Care Needs in Fayette County ($150,040); the Department for Community Based Services ($109,460) in Clark County; and the Office of Information Technology and Facilities Management ($100,815) in Franklin County. One new lease for office space was approved for the Kentucky Horse Racing Authority ($148,692) in Fayette County.

Also reviewed by the committee during the reporting period were two emergency leases. The Kentucky State Police in Laurel County initiated emergency action to renew its lease temporarily at an increased rate until a new lease could be negotiated for the agency. The lease has an annual cost of $54,047. The Cabinet for Health and Family Services' Office of Inspector General and the Department of Mental Health in Fayette County obtained emergency replacement space due to the loss of its leased office space at the federal Veterans Affairs Medical Center. The new lease has an annual cost of $215,167.

During the reporting period, the committee approved two new leases for the University of Kentucky: Data Center ($1,624,880), located at Coldstream Research Farm; and the Colleges of Engineering, Agriculture, Pharmacy, Medicine, and Social Work, and the Interdisciplinary Human Development Institute ($308,864), located in the Kentucky Utilities Building in downtown Lexington. The committee also approved one lease modification for the College of Pharmacy ($40,400) for renovation costs associated with the fit-up of the building.

The committee approved a new lease of office/clinical space for the University of Louisville School of Dentistry ($105,016) and a new lease of classroom and training space for Jefferson Community and Technical College ($198,864).

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 Robertson County Judicial Center. The use allowance is a payment AOC makes to a county for court space and is structured to cover a county's debt service payments related to the financing of a court project.

The Robertson County court project was authorized by the 2005 General Assembly at a scope of $2,229,000 and provided for a one-story addition to the existing county courthouse. The project's scope was developed in AOC's 2002-2004 budget request and was not adjusted for inflation or commodities price increases before being requested in 2005. In February 2008, the committee approved increasing the scope of the annual use allowance for the facility from $199,000 to $228,850 (15 percent) to allow AOC to address the higher-than-anticipated base bid for the building addition.

Report of the 2008
Education Assessment and Accountability
Review Subcommittee

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

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

Rep. Bill Farmer
Rep. Mary Lou Marzian

LRC Staff: Sandra Deaton, Lisa Moore, and Janet Oliver

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Education Assessment and Accountability Review Subcommittee

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

Subcommittee Activity

The subcommittee met six times during the 2008 Interim.

The subcommittee heard testimony about administrative regulations, reports of studies conducted by the Office of Education Accountability (OEA), and various other education reports including the results of 2008 test scores.

The subcommittee reviewed 703 KAR 5:170, the Kentucky Highly Skilled Educator Program. The administrative regulation was amended to include language that limits a highly skilled educator's salary to 135 percent of the local educator's total district salary. The provision was adopted in House Bill 53 of the 1998 Regular Session but never included in the regulation.

The Office of Education Accountability presented its 2007 Finance Report. KRS 7.410 mandates OEA to monitor and report on the elementary and secondary education funding system. Since 1990, OEA has conducted reviews of school finance issues, primarily focusing on the level of equity achieved by the funding system. The report concluded that several measures of equity show similar findings, although the magnitude of the equity gap varies depending upon the measure used. The equity gap widened in the past 2 years.

The 2007 OEA Annual Report includes a summary of the status and results of the current year's annual research agenda and a summary of completed investigative activity. Under new statutory guidelines, 2007 was the first year OEA conducted research. The research agenda was developed by the members of the subcommittee, with OEA staff input, and approval by the full subcommittee.

During 2007, OEA studied the Extended School Services program that provides direct financial assistance to districts to fund supplemental academic programs. It was generally found that middle and high schools faced greater challenges than elementary schools in providing effective services. It was also found that the Department of Education does not provide the level of direction and support needed to assure quality programs across the state. The report made several recommendations for improving the program.

OEA compiled a comprehensive collection of education data for each local school district, including information on student enrollment, attendance, demographics, attainment, and discipline. Also included is a finance data section with tax information, per pupil expenditures, and revenues by source. The performance section includes district level data for the EXPLORE, PLAN, ACT, and Commonwealth Accountability Testing System and the Advanced Placement tests.

The Commissioner of the Kentucky Department of Education (KDE) said he plans to actively involve the business community and hold summits at various locations to get citizens excited about improving education. He reported that since only 12 percent of the state's high schools and 21 percent of the middle schools are on track to reach proficiency by 2014, the challenges are great and will require collaboration and cooperation among educators, the business community, and all citizens.

KDE staff reported on the implementation of the MUNIS system, the new data collection system for local school districts and responded to concerns raised in the OEA study *Indicators of Efficiency and Effectiveness in Elementary and Secondary Education Spending*, Research Report No. 338. Some areas of concern include coding and data consistency; improvements to the data integrity efforts, including stricter enforcement of accounting protocols and monitoring of district compliance; and KDE providing more regular training at the local level.

The subcommittee held a meeting to discuss preparedness for kindergarten. Northern Kentucky University, United Way of Greater Cincinnati Success by Six, and the Council of Partners in Education have joined to define kindergarten readiness for children in northern Kentucky. A representative of the organizations discussed their work. The subcommittee also heard from representatives of the Fayette County School District and KDE. The Fayette County system administered a screening assessment of children entering kindergarten this school year to help teachers more quickly adapt their instructional practices to meet the needs of the children. KDE staff discussed kindergarten readiness from the state level perspective.

KDE staff presented the 2008 test scores for the Commonwealth Accountability Testing System, No Child Left Behind, and ACT. Results from the 2008 administration of the CATS test show improvement in most scores for all grade levels and subject areas. Fewer schools are in need of assistance as a result of their performance over the 2007-2008 testing cycle. Data indicate that 70.9 percent, or 820 of Kentucky's 1,157 public schools, made adequate yearly progress in the 2007-2008 school year under the requirements of the federal No Child Left Behind Act. The average composite ACT score in Kentucky has improved one full point since 1990. During that time the national average has only increased a half-point. In Kentucky, the number of students taking the ACT test has increased significantly, from 24,942 in 1990 to 31,728 in 2008.

Report of the 2008
Government Contract Review Committee

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

Sen. Julian Carroll	Rep. Jesse Crenshaw
Sen. Carol Gibson	Rep. Brad Montell
Sen. Elizabeth Tori	Rep. Brent Yonts

LRC Staff: Kim M. Eisner, Matthew T. Ross, and Rebecca A. Brooker

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Government Contract Review Committee

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

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

Personal service contract review exemptions include 1) agreements between the Department of Parks and a performing artist or artists for less than $5,000 per fiscal year, per artist or artists; 2) agreements with public utilities, foster care parents, providers of certain direct Medicaid health care to individuals, individuals performing homemaker services, and transit authorities; 3) agreements between state universities or colleges and employers of students in the Commonwealth Work Study Program; 4) agreements between state agencies and rural concentrated employment programs; 5) agreements between the State Fair Board and judges, officials, or entertainers contracted for events promoted by the State Fair Board; or 6) any other contract that the committee deems inappropriate for consideration.

Committee Activity

The Government Contract Review Committee is a statutory committee of the Legislative Research Commission and is required to meet monthly. During fiscal year 2008, beginning July 1, 2007, and ending June 30, 2008, the committee reviewed 596 personal service contracts and 437 amendments to personal service contracts. The committee also reviewed 323 personal service contracts for $10,000 and under, which are submitted to the committee for informational purposes only.

During fiscal year 2008, the committee reviewed 662 memoranda of agreement and 926 memoranda of agreement amendments. The committee also reviewed 832 memoranda of agreement for $50,000 and under, which are submitted to the committee for informational purposes only.

During fiscal year 2008, the committee reviewed 1,356 personal service contract items and 2,420 memoranda of agreement items, for a total of 3,776 items.

Since the start of fiscal year 2009 through November 12, 2008, the committee has reviewed 1,027 personal service contracts and 203 amendments to personal service contracts. The committee also reviewed 174 personal service contracts for $10,000 and under, which are submitted to the committee for informational purposes only.

Since the start of fiscal year 2009 through November 12, 2008, the committee has reviewed 915 memoranda of agreement and 620 memoranda of agreement amendments. The committee also reviewed 774 memoranda of agreement for $50,000 and under, which are submitted to the committee for informational purposes only.

Since the start of fiscal year 2009 through November 12, 2008, the committee has reviewed 1,404 personal service contract items and 2,309 memoranda of agreement items, for a total of 3,713 items.

Note: These totals reflect all personal service contracts and memoranda of agreements entered into the e-mars procurement system and captured by the Legislative Research Commission Contract Reporting Database.

Report of the 2008
Medicaid Oversight and Advisory Committee

Sen. Richard "Dick" Roeding, Co-Chair
Rep. Jimmie Lee, Co-Chair

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

Rep. Bob DeWeese
Rep. Jim Glenn
Rep. Joni Jenkins
Rep. David Watkins

LRC Staff: Miriam Fordham and Cindy Smith

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Medicaid Oversight and Advisory Committee

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

Committee Activity

The Medicaid Oversight and Advisory Committee held three meetings during the 2008 Interim.

Major Issues Considered by the Committee

Passport Health Plan

The Chairman and Chief Executive Officer of University Health Care, Inc. and the Executive Vice President of health affairs for the University of Louisville provided an overview of the Passport Health Plan. The Chairman reported that the Passport Health Plan ranks 11th among all Medicaid health plans in the country and has been the only successful health plan under the sole source partnership model in Kentucky. Passport covers 145,000 Medicaid and Kentucky Children's Health Insurance Program beneficiaries in 16 counties. Factors cited as key to Passport's success are its status as sole source and provider sponsored; the partnership model; extensive physician and clinician involvement in developing, implementing, and managing the plan; collaboration with community agencies and health departments; an extensive provider network and enhanced reimbursement; high member satisfaction and involvement; and care management programs.

The Chairman reported that the Partnership Council comprises a group of committees that includes providers, advocates, and beneficiaries. The committees include child and adolescent health, women's health, and pharmacy and therapeutics. AmeriHealth Mercy Health Plan provides the day-to-day administration for the Passport Health Plan. The state has a contract with University Health Services to provide services for Medicaid members in the 16 counties covered by Passport. The Partnership Council also is a segment of the contract because that structure is a key component of the federal 1115 waiver under which Passport is authorized to provide services. Under the 1115 waiver, which must be renewed every 3 years, Passport must demonstrate budget neutrality. The current waiver must be renewed by October 2008.

The Chairman discussed trends in medical costs, pharmacy cost containment, and quality of care. Passport's 2007 medical cost trend was 4.9 percent, compared to the regional trend of 10.1 percent and the national trend of 8.0 percent. The pharmacy cost trend has decreased from 22 percent in 2000 to 3.5 percent in March 2008. Generic usage has increased from 54 percent in 2000 to 75.16 percent in March 2008. Passport provider payments have equaled or exceeded those of Kentucky Medicaid with 92 cents of every dollar going to providers. The Passport Health Plan was awarded excellent accreditation by the National Committee for Quality Assurance (NCQA). Health plans accredited by NCQA must meet standards for clinical care and services. Adult and child satisfaction survey results have indicated an improvement in that area.

Passport has seen emergency room use decrease, while ongoing prenatal care has risen. The health plan's Early Periodic Screening, Diagnosis, and Treatment compliance rate has risen to 93 percent.

Non-Emergency Medical Transportation

The Commissioner of the Department for Medicaid Services and a representative from the Office of Transportation Delivery in the Transportation Cabinet provided an overview of Non-Emergency Medical Transportation (NEMT) services that are available through the Human Service Transportation Delivery program, a regional brokerage system. The Commissioner reported that requests for proposals for new NEMT regional brokers were issued in October 2007 for the 2008-2009 contract year. Proposals were submitted for Regions 1 through 14. The proposals were evaluated and scored, and contracts were awarded in February 2008 to be effective July 1, 2008. Regions 1, 3, 4, 5, and 6 experienced changes in brokers. The Commissioner reported that brokers are paid a monthly capitation rate per Medicaid-eligible person in their regions, regardless of service utilization. From the monthly capitation rate, brokers reimburse providers for all trips. There is also a quality control component included in the request for proposals. The Office of Transportation Delivery maintains quality control over brokers, and brokers maintain quality control over providers. The Commissioner reported that problems were encountered with the transfer of information from the old brokers to the new brokers. The representative from the Office of Transportation Delivery reported that the information was not transferred in a timely manner.

Department for Medicaid Services

The Commissioner of the Department for Medicaid Services provided an update on the department's activities and the reorganization of the department. The Commissioner reported that Medicaid covers nearly half of all births in the Commonwealth per year; provides health coverage to one out of every three children and one out of every seven seniors over age 65; and provides coverage to approximately 730,000 enrollees, or about 20 percent of the state's total population. There are about 26,000 providers enrolled to deliver services to individuals covered by Medicaid. Funds budgeted for the Medicaid program for 2008-2009 total $5.1 billion and $5.4 billion for 2009-2010. The Commissioner reported that the number of individuals eligible for Medicaid continues to rise. The department reorganized and now includes the Department for Community Alternatives, which is transitioning out of long-term care. One of the goals of the new department is to help Medicaid recipients to live in the community. The Commissioner reported that the Office of State Plans and Regulations has been moved back to the commissioner's office and will play a vital role. The $100 million in federal referrals has decreased to $6 million.

Services for the Disabled

The Commissioner of the Department for Medicaid Services provided a report on the Michelle P. settlement, which was the result of a lawsuit filed in 2002. The amended settlement agreement was approved in federal court on July 16, 2008, and the Michelle P. waiver was approved by the Centers for Medicare and Medicaid Services on July 1, 2008. The waiver

provides nonresidential supports and services to individuals with mental retardation or developmental disabilities (MR/DD). Individuals with MR/DD may be eligible for enhanced community services beginning August 2008. The services blend Home and Community Based services and Supports for Community Living services. Assessment and reassessment is provided through community mental health centers. Waiver services include case management, personal care, adult day training, respite care, behavioral supports, occupational and speech therapy, environmental and minor home adaptations, homemaker services, adult day health care, supported employment, attendant care, community living supports, and physical therapy. Services through the Consumer Directed Option include support broker and home and community supports, goods and services, community day supports, and financial management.

Medicaid Reform

The Commissioner and representatives from the Department for Medicaid Services provided an update on the Medicaid reform initiatives. The Commissioner reported that the diabetes disease management pilot program has been fully implemented in targeted counties under the contract with First Health. Effective July 1, 2009, the program will begin to be delivered through partnership with the Diabetes Centers of Excellence in counties with the largest concentration of high-risk diabetes patients. Effective July 1, 2010, the final phase of the program will be implemented, expanding the program to other areas where it will be cost effective. The Commissioner reported that Kentucky is in the highest tier for the number of diabetes deaths per 100,000 population, which makes for a ranking of 40th in the nation for such deaths. Kentucky Medicaid has more than 65,000 members with diabetes; diabetes management should be a high priority for the Medicaid program. Kentucky ranks 35th in the nation in the percentage of adults who have been told that they have asthma, and more than 60,000 Medicaid members have an asthma diagnosis. Kentucky ranks 39th in the nation for the number of preterm births. Medicaid pays for approximately 40 percent of all births in Kentucky; this rises to nearly 50 percent when members covered by the Passport Health plan are included.

The Commissioner reported on efforts to modernize Medicaid. The Health Insurance Premium Program has not reached its goal of enrolling 1,000 individuals by the end of 3 years. Only six individuals have been enrolled. The department has identified some of the barriers contributing to the low enrollment: a lack of true wraparound coverage, an insufficient focus on high-cost individuals, and an inadequate cost-effectiveness methodology. Modernization of the KenPAC program will focus on emphasizing the importance of a medical home, effectively engaging primary care providers, designing program components that align incentives, sharing appropriate data to maximize clinical outcomes, and establishing program baseline data and goals and monitoring progress.

The Commissioner reported on the progress of programs to expand access to community-based services. The Michelle P. waiver was implemented August 1, 2008. The Money Follows the Person grant was operational August 13, 2008. The Acquired Brain Injury waiver for those who have reached a plateau in rehabilitation was effective November 1, 2008. The Commissioner also reported on efforts in the area of program integrity. The new Division for Program Integrity, formerly under the Office of Inspector General, was operational in the Department for Medicaid Services effective June 16, 2008.

A representative from the Department for Medicaid Services discussed the pharmacy management program. A review of the new classes of pharmaceuticals generating rebate savings was completed in the Enhanced Preferred Drugs List Management Program. The generic utilization rate has improved to 72.18 percent, and pharmacy audits began in the first quarter of 2008. Enhanced program integrity coordination was put in place, and academic detailing and provider education on appropriate use of prescription drugs was implemented.

Medicaid Management Information System

A representative from EDS, which is a national company that provides Medicaid management services, reported on the Medicaid Management Information System (MMIS) that EDS has implemented. The federal government requires EDS to produce an 1115 report on the Medicaid program because EDS is the vendor for MMIS in Kentucky. The report can include all expenditures and services provided by Medicaid. For instance, EDS can report on the 200 most costly cases and a history of their services received. The representative reported that more than 19 million claims have been paid, and the average check written each week is about $70 million.

December Meeting

The Medicaid Oversight and Advisory Committee plans to meet in December. It is projected that the agenda will include testimony from representatives from Passport Advantage Plan and the medical director of the Kentucky Medicaid program.

Report of the 2008
Program Review and Investigations Committee

Sen. Ernie Harris, Co-Chair
Rep. Reginald Meeks, Co-Chair

Sen. Charlie Borders	Rep. Dwight Butler
Sen. Vernie McGaha	Rep. Leslie Combs
Sen. R.J. Palmer	Rep. Rick Nelson
Sen. Joey Pendleton	Rep. Ruth Ann Palumbo
Sen. Dan Seum	Rep. Rick Rand
Sen. Brandon Smith	Rep. Arnold Simpson
Sen. Katie Stine	Rep. Ken Upchurch

LRC Staff: Greg Hager, Rick Graycarek, Jim Guinn, Christopher T. Hall, Margaret Hurst, Colleen Kennedy, Van Knowles, Jean Ann Myatt, Rkia Rhrib, Tara Rose, Cindy Upton, and Stella Mountain

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Program Review and Investigations

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

Any official in the executive, judicial, or legislative branches of government may request a study. A majority vote of the committee is required to initiate research studies and to approve final reports. Reports are based on staff research but represent the official opinion of the majority of the committee once approved. The committee issues a final report for a study after public deliberations that include the responses of officials of relevant state agencies.

Committee Activity

In 2008, the Legislative Program Review and Investigations Committee held five meetings through November.

At the June meeting, members of the committee elected the Senate and House co-chairs. Staff presented the report *Investment Rates of Return, Governance, and Policies of the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System.* The report concluded that investment rates of return for these systems have been lower than returns of comparable retirement systems in other states. The report also noted that investment expertise was not a requirement of serving on either system's board of trustees. The report made five recommendations related to improving how investment performance, benchmarks, goals, and objectives are reported. The Executive Director and the Chief Investment Officer from the Kentucky Retirement Systems and the Executive Secretary from the Teachers' Retirement System of Kentucky responded to the report and addressed questions from members of the committee. After discussion, the committee adopted the report and its recommendations.

At the August meeting, staff presented the report *The Costs of College and High School Textbooks in Kentucky*. The reported concluded that prices for college textbooks have increased at a faster rate than prices in general, in part because faculty select textbooks based primarily on characteristics other than price. Kentucky public high schools spent an average of $76 per student for textbooks and instructional materials in fiscal year 2007. The report included three recommendations to make selection of textbooks by local school districts more efficient. The Director of the Division of Curriculum of the Kentucky Department of Education responded to the report and addressed questions from members of the committee. After discussion, the committee adopted the report and its recommendations. The Director of the Division of Curriculum appeared at the committee's next meeting to answer questions about the allocation of high school textbooks to students.

At the September meeting, the Acting Executive Director of the Kentucky Heritage Council, who is also the State Historic Preservation Officer, gave a presentation on the preservation of Kentucky's cultural resources. A panel discussion on the topic followed. The participants were the co-author of a book on Kentucky rock art, the Director of the William S. Webb Museum of Anthropology and Office of State Archaeology of the University of Kentucky, the Senior Archaeologist Project Manager of AMEC Earth & Environmental, the Site Protection Program Administrator and Director of the Kentucky Archaeological Survey of the Kentucky Heritage Council, and the Director of the Kentucky Transportation Cabinet's Division of Environmental Analysis. Meeting participants addressed questions from members of the committee.

At the October meeting, staff presented the report *Reentry Programs for Felons Should Be Improved and Outcome Measures Should Be Developed*. The report concluded that the Department of Corrections should improve the programs it provides to incarcerated felons to prepare them for reentering society and should measure and report the outcomes of its programs. The report made seven recommendations on how the department could improve its reentry programming and use its management information system to analyze systemwide program successes and identify improvements that should be made. The Deputy Commissioner for Support Services, Deputy Commissioner for Adult Institutions, Assistant Director of the Division of Mental Health, Pre-release Coordinator, and the Branch Manager for Home Incarceration Program and Re-Entry Efforts, all from the Department of Corrections, responded to the report and addressed questions from members of the committee. After discussion, the committee adopted the report and its recommendations. At the next meeting, the Commissioner and Assistant Director of the Department of Corrections addressed committee members' questions about the required reporting of the recidivism rate for sexual offenders.

At the November meeting, staff presented the report *A Review of the Kentucky Agency for Substance Abuse Policy and the Office of Drug Control Policy*. The report concluded that Kentucky's substance use and abuse programs are spread over many agencies; and that the Office of Drug Control Policy should strengthen its coordination, planning, and reporting efforts. The report made 18 recommendations to the agency, the Governor, and the General Assembly to help improve performance and clarify the statutory duties of the agency. The Acting Executive Director of the Office of Drug Control Policy responded to the report and addressed questions from members of the committee. After discussion, the committee adopted the report and its recommendations. The committee voted to initiate three new studies: Medicaid information systems, the Highly Skilled Educators Program, and procedures of the Kentucky High School Athletics Association.

For the December meeting, staff will present a report on the cost of unauthorized aliens in Kentucky.

Report of the 2008
Tobacco Settlement Agreement Fund Oversight Committee

Sen. Carroll Gibson, Co-Chair
Rep. Rick Rand, Co-Chair

Sen. Charlie Borders	Rep. Royce W. Adams
Sen. David E. Boswell	Rep. James R. Comer, Jr.
Sen. Dan Kelly	Rep. Charlie Hoffman
Sen. Joey Pendleton	Rep. Tom McKee
Sen. Richie Sanders, Jr.	Rep. Tommy Turner

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

Presented to the
Legislative Research Commission
and the
2009 Regular Session of the
Kentucky General Assembly

Tobacco Settlement Agreement Fund Oversight Committee

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

Committee Activity

The Tobacco Settlement Agreement Fund Oversight Committee met 12 times during the 2008 calendar year. Each month, as required by statute, the committee received activity reports from the Governor's Office of Agricultural Policy (GOAP) and from the Agricultural Development Board (ADB) regarding funding decisions on Agricultural Development Fund project applications. The committee received reports from executive branch agencies that receive a portion of the tobacco settlement funds. Also, the committee continued to serve as a forum for public input and performed an oversight function regarding funding decisions made by the ADB.

The committee discussed the status of Tobacco Master Settlement Agreement (MSA) funding and the status of the funds in the context of the state budget, decisions made in allocating the agricultural development funds at the state and local level, how individual agricultural diversification projects are monitored, how county council members fulfill their duties, and how executive branch agencies are choosing to fund health-related programs.

In January, the committee received a briefing from two University of Kentucky professors who were leading a study on the effectiveness of tobacco settlement fund investments in agriculture, agribusiness, and leadership since the inception of the program. During other meetings, the committee questioned how GOAP officials monitor and oversee usage of the MSA funds.

The committee met at the University of Kentucky in September took part in a lengthy discussion with GOAP officials regarding an audit of a sizable grant/loan. The audit, undertaken by the Auditor of Public Accounts, questioned the appropriateness of certain expenditures and, among other issues, examined the adequacy of monitoring and contract documentation. In subsequent meetings, the committee heard from GOAP staff how the agency was complying with the audit recommendations.

The committee received reports throughout much of the year on the Kentucky Agricultural Relief Effort, which was established to direct some agricultural development funds toward projects aimed at alleviating effects of the severe drought in 2007.

The committee discussed issues pertaining to health, children's health, high-risk insurance, smoking cessation, soil conservation, water and sewer expansion, and universities' use of MSA funds. The committee also discussed other issues such as farmers' market funding, agricultural product marketing and distribution, and agricultural lending through the Kentucky Agricultural Finance Corporation (KAFC).

Review of Agricultural Development Fund Projects

At each monthly meeting, the committee received a report on the projects on which the ADB acted in its previous meeting. In doing so, the committee performed its responsibility of monitoring the expenditure of funds received under the MSA, receiving reports of the Agricultural Development Board through the Governor's Office of Agricultural Policy, and overseeing the pattern of Master Settlement Agreement revenues usage in accordance with requirements of the agreement.

GOAP representatives reviewed projects affecting multiple counties and regions and the state as a whole. They also presented a monthly listing of county model programs.

A number of projects related to improving farmers' market operations in several counties and regions. The ADB also awarded funds for food production, processing, and distribution projects, for retail additions, agricultural education endeavors, and agritourism. On a number of occasions, the committee learned that the board had approved funding at the local level for "menu" projects that allowed people to apply for funds from among a variety of model program options.

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

In April, the committee heard a report by the Kentucky Beef Network and Kentucky Cattlemen's Association regarding how they use agricultural development funds to promote beef cattle farming in Kentucky.

The committee devoted a portion of the May meeting to the Kentucky Horticulture Council, with members of the council describing how the agricultural development funds had assisted them, particularly in marketing their products.

In June, the committee received testimony from several local agricultural development council members who shared their observations regarding agricultural trends in their counties and how people are utilizing the funds. They also discussed their concerns and problems.

Agency Reports Received

In addition to the monthly reports from representatives of the Governor's Office of Agricultural Policy, the committee received status reports from administrators of state and university programs receiving tobacco settlement funds through the state budget.

In July, the committee received the annual report from the director of the Division of Early Childhood Development, which receives 25 percent of the tobacco settlement funds coming to Kentucky. Committee members asked a range of questions regarding how the agency publicizes its programs, interacts with other agencies, and offers eye care services. During the same meeting, the committee received a report on the Smoking Cessation and Prevention Program. Committee members asked about penalties for selling cigarettes to minors, lung cancer rates, and the reasons children take up smoking.

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

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

Committee members received a financial report on Kentucky Access, the high-risk insurance pool that received tobacco settlement funds totaling almost $18.1 million in fiscal year 2008.

In August, the committee heard about the current activities of KY-ASAP. During discussion, committee members learned how drug and alcohol counselors are placed in local schools.

In September, the committee met at the University of Kentucky. Officials from the University of Louisville joined the meeting to bring the panel up to date on the latest work in lung cancer research funded in part with tobacco settlement revenues. The speakers discussed regional outreach efforts, the status of clinical trials, investigator-initiated research, how tobacco funds are used to leverage other funds, and how the institutions are seeking to gain National Cancer Institute designation.

In October, the committee received a report from the Kentucky Infrastructure Authority (KIA). The presentation prompted questions about the extent of public water service in Kentucky, the sufficiency of watershed sources, the status of unused KIA funds, and factors involved in extending sewer lines.

Officials with KAFC updated the committee on the beginning farmer, agricultural infrastructure, coordinated value-added assistance, and the agricultural processing loan programs.

November's agenda included a report from the Division of Conservation, which receives state MSA funds. Division staff brought the committee up to date on the soil erosion and water quality cost-share program. The speaker said the tobacco funds continue to remain important to the program.

In December, the committee heard a final comprehensive report on the University of Kentucky evaluation of the impacts of Agricultural Development Fund expenditures. Committee members learned that Agricultural Development Fund spending from 2001 through 2007 had largely been successful, leading to the creation of new markets, the expansion of existing markets, and the development of new products.