

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

2002

**Presented to the
Legislative Research Commission
and the
2003 Kentucky General Assembly**

Edited by
Tom Lewis

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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 sixty legislative days in even numbered years, and for thirty legislative days, including an up to ten day organizational component, in odd-numbered years.

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

During the 2002 interim, twelve of the thirteen interim joint committees held meetings, and three special committees were authorized by LRC. Of the eight statutory committees, seven met during the 2002 interim.

LRC provides this informational booklet as a summary of the activity of the interim joint, special, and statutory committees since adjournment of the 2002 General Assembly. The reports were prepared separately by the committee staff and were edited by Tom Lewis, Research Editor.

Robert Sherman
Director

The Capitol
Frankfort, Kentucky
December 2002

CONTENTS

	Page
FOREWORD	i
TABLE OF CONTENTS	iii
 REPORTS OF 2002 INTERIM JOINT COMMITTEES	
Agriculture and Natural Resources	1
Appropriations and Revenue.....	9
Banking and Insurance.....	15
Economic Development and Tourism	19
Education	25
Health and Welfare	31
Judiciary.....	47
Labor and Industry.....	55
Licensing and Occupations.....	59
Local Government	65
Seniors, Veterans, Military Affairs, and Public Protection	71
State Government.....	77
Transportation.....	83
 REPORTS OF STATUTORY COMMITTEES	
Administrative Regulation Review Subcommittee.....	87
Capital Projects and Bond Oversight Committee	91
Capital Planning Advisory Board	107
Education Assessment and Accountability Review Subcommittee.....	111
Government Contract Review Committee.....	117
Medicaid Managed Care Oversight Advisory Committee.....	121
Program Review and Investigations Committee.....	127
 REPORTS OF 2002 SPECIAL COMMITTEES	
Task Force on Services and Supports for Individuals with Acquired Brain Injuries.....	131
Task Force on the Lexington/Big Sandy Rail Trail	137
Task Force on Funding for Wildlife Conservation	141

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON
AGRICULTURE AND NATURAL RESOURCES**

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

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Rep. Woody Allen Jr.	Rep. Adrian Arnold
Rep. John Arnold Jr.	Rep. Sheldon Baugh
Rep. Ira Branham	Rep. Scott Brinkman
Rep. James Bruce	Rep. Dwight Butler
Rep. Mike Cherry	Rep. Philip Childers
Rep. Jack Coleman	Rep. Hubert Collins
Rep. James Comer	Rep. Howard Cornett
Rep. Keith Hall	Sen. Paul Herron Jr.
Rep. Charlie Hoffman	Sen. Daniel Kelly
Sen. Robert Leeper	Sen. Vernie McGaha
Rep. Thomas McKee	Sen. Virgil Moore
Rep. Fred Nesler	Sen. Joey Pendleton
Rep. Don Pasley	Rep. Tanya Pullin
Rep. Marie Rader	Sen. Ernesto Scorsone
Rep. William Scott	Sen. Tim Shaughnessy
Rep. Dottie Sims	Rep. Jim Stewart
Rep. Gary Tapp	Sen. Elizabeth Tori
Rep. Mark Treesh	Rep. Johnnie Turner
Rep. Tommy Turner	Rep. Ken Upchurch
Rep. Robin L. Webb	Sen. Ed Worley
Rep. Brent Yonts	

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AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

**SUBCOMMITTEE TO STUDY
THE ESTABLISHMENT OF A FARM MUSEUM**

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

Rep. Adrian Arnold
Rep. Dwight Butler
Rep. Tom McKee
Rep. Marie Rader
Sen. Elizabeth Tori

Rep. James Bruce
Rep. Mike Cherry
Sen. Joey Pendleton
Rep. Dottie Sims
Rep. Tommy Turner

**SUBCOMMITTEE TO STUDY
COMPETITIVENESS OF KENTUCKY COAL**

Sen. Bob Leeper, Co-Chair
Rep. Jim Gooch, Co-Chair

Rep. Rocky Adkins
Rep. James Comer
Rep. Keith Hall
Sen. Virgil Moore
Rep. Johnnie Turner

Rep. Hubert Collins
Rep. Howard Cornett
Sen. Paul Herron, Jr.
Rep. Tanya Pullin
Rep. Robin 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; Natural Resources and Environmental Protection Cabinet; and all matters not specifically assigned to another committee relating to administrative, regulatory, or operating issues which, because of their smaller size, uniquely impact small business.

COMMITTEE ACTIVITY

The Interim Joint Committee on Agriculture and Natural Resources met three times following adjournment *sine die* of the 2002 General Assembly. The Committee's attention was fairly split between the subjects of agriculture and natural resources.

The Committee began the interim by meeting in conjunction with the State Fair Board during the State Fair. The meeting allowed the members to participate in the Farm Day fair activities and to visit agricultural community leaders from around the state. In addition, the Committee received a report from the State Fair Board. Concern was expressed by the board that because money in the state budget is limited the funding needed to upgrade the State Fairgrounds will be delayed or cut. The board chairperson explained the connection between Kentucky maintaining and improving its Class A exhibit space and retaining and attracting exhibitors and conventions to Kentucky. An example given was the decision of the annual FFA convention organizers to end its commitment to meet in Louisville because the State Fairground's exhibit space and hotel accommodations do not match the facilities and housing available in Indianapolis, which will host future FFA conventions.

The Committee also received a report from the State Director of the U.S. Department of Agriculture, Farm Service Agency. The report focused on the 2002 federal Farm Bill. Of particular note to the Committee were new federal programs to support dairy farmers and corn growers.

The final agricultural topic covered by the Committee looked into the horse industry's role in the agricultural economy of the state. Representatives of Kentucky Thoroughbred Owners and Breeders Inc. and horse farm owners presented information showing that Kentucky's horse farms provide a \$3.4 billion economic impact to the state and support 16,600 full time employees and 36,600 indirect jobs. They pointed out that Kentucky produces thirty percent of the nation's thoroughbred foal crop.

The horse industry representatives alerted the Committee to threats to Kentucky's preeminent position within the industry. They pointed out that other states are boosting incentives for horse breeders to locate in their states, for example, by paying higher purses than those that can be won at Kentucky race tracks. They also explained that Kentucky competes with other countries. To illustrate, one presenter told how a stallion breeding syndicate he had organized lost a bidding war to buy War Emblem, the 2002 Kentucky Derby winner, to a buyer from Japan. Much of the focus in the competition between states and countries is on stallions, which are the economic engine in the thoroughbred industry because the mares bred to the stallions and the support structure of veterinarians, transport companies, and farm suppliers all must be close to the stallions.

The Committee also took testimony from a solid waste service company owner about how 2002 legislation, HB 174, has affected his business. The Committee's Senate Co-Chair asked a representative of the implementing agency, the Natural Resources and Environmental Protection Cabinet, to provide information about the opportunity of the public to comment on the administrative regulations that are to be adopted to carry out HB 174.

The state's natural resources also received attention from the committee. Representatives of the Kentucky Coal Council presented information about petroleum coke. Petroleum coke, or petcoke, is a byproduct of oil refining. Being a carbon based substance, petcoke can be burned for energy production. Additionally, petcoke's cost is substantially lower than coal. The Kentucky Coal Council emphasized to the committee that this cost differential threatens Kentucky's coal production and coal based economy.

Also, representatives of the Department of Fish and Wildlife Resources provided information about the state's efforts to stop chronic wasting disease (cwd) from spreading into Kentucky. CWD is a spongiform encephalopathy, which is a neurological disease characterized by degeneration of the brain. The disease affects deer and elk. If Kentucky's herds were to become affected an expected outcome would be a severe drop in hunting activity with a corresponding loss of economic activity.

Administrative Regulations

The Committee has jurisdiction over state agencies that have promulgated approximately twenty-eight percent of all executive branch administrative regulations.

This past year the Committee reviewed twenty-six administrative regulations. These regulations related to programs of the Department of Fish and Wildlife Resources, the Department for Surface Mining Reclamation and Enforcement in the Natural Resources and Environmental Protection Cabinet, the Public Service Commission, the Department of Agriculture, and the Office of the Petroleum Storage Tank Environmental Assurance Fund.

The Committee found that the regulations comply with statutory requirements.

Resolutions Requesting Action

A resolution was adopted to memorialize General James E. Bickford, the Secretary of the Natural Resources and Environmental Protection Cabinet who passed away during the year, and to recognize the Secretary's outstanding efforts in the public's service.

A resolution was adopted to urge Congress to amend the U. S. Warehouse Act of 2000 for the purpose of preventing the preemption of state regulatory authority over grain merchandising and grain buyer activities of federally licensed warehouses.

A resolution was adopted to request reconsideration of the Notice of Proposed Rulemaking issued August 1, 2002, by the Federal Energy Regulatory Commission to remedy discrimination through open access transmission service and standard electricity market design.

Prefiled Bills Informally Referred to the Committee

The following bills prefiled for the 2003 regular session were informally referred to the Committee for review.

- | | |
|--------------|---|
| 03 RS BR 15 | AN ACT relating to income tax. |
| 03 RS BR 147 | AN ACT relating to vehicle emissions. |
| 03 RS BR 162 | AN ACT relating to permitting solid waste sites or facilities. |
| 03 RS BR 264 | AN ACT relating to vehicle emission testing. |
| 03 RS BR 298 | AN ACT relating to the Purchase Area Regional Industrial Authority, Inc., making an appropriation therefor, and declaring an emergency. |

Legislative Proposals Received from State Agencies

The Department of Mines and Minerals outlined proposals for possible legislative action in the 2003 legislative session. The proposals would update mining electrical service laws which have not been significantly amended since 1972; revise the regulation of explosives use and blasting to increase the penalties for negligent blasting; and make general mine law changes, such as expanding the approved means of locating old mines.

Representatives of the Department also commented that the oil and gas industry may seek changes to the oil and gas laws that would include a revision of bonding requirements in response to the problems that arise from unbonded abandoned wells.

Reports Received

House Joint Resolution 210 of the 2002 General Assembly required Kentucky State University, in cooperation with the Kentucky Aquaculture Task Force and the Kentucky Department of Fish and Wildlife Resources, to determine the public's opinion of reservoir ranching of paddlefish in public waters. A representative of Kentucky State University presented the preliminary findings of the study. The findings indicated that when 476 individuals were asked the question "Should reservoir ranching of paddlefish in selected public reservoirs be allowed?" 76.6% said yes, 15.11% said no, and 8.3% said they had no opinion.

The various other reports received by the committee during the interim include:

Inventory of Facilities Eligible for Reimbursement from the Office of Petroleum Storage Tank Environmental Assurance Fund.

Tobacco and Health Research Institute: Quarterly Report, April 1- June 30, 2002.

Statewide Solid Waste Management Report – 2001 Update.

*Kentucky Interagency Groundwater Monitoring Network – Annual Report
2001-2002.*

Kentucky Heritage Land Conservation Fund Board Annual Report.

Subcommittee to Study Establishment of a Farm Museum

The Subcommittee met two times during the interim and was charged with the responsibility to conduct the study mandated by HCR 10 of the 2002 legislative session. The resolution directed that an inquiry be made into potential sites for a farm museum, possible sources of public and private funding, and the organizational possibilities and public mission for such a museum.

The Subcommittee directed staff to survey various federal and state agencies to develop information. In addition, detailed profiles were requested of six existing agricultural museums. Finally, an opportunity was given to public and private agencies and organizations to express their opinions on the feasibility of establishing a farm museum for the state.

The Subcommittee observed that the museums that were studied had in common substantial financial support from government or a private endowment. The members concluded their work by stating that they were generally supportive of the concept of a high-class, stand-alone museum that would promote the agriculture industry and agritourism in general.

Subcommittee to Study the Competitiveness of Kentucky Coal

The Subcommittee met two times during the interim and was charged with the responsibility of conducting the study mandated by HCR 244 of the 2002 legislative session. The Subcommittee focused on identifying the present markets for Kentucky coal, understanding the competition in the coal industry, determining what impedes Kentucky coal sales, reviewing innovative programs of other states to help the coal industry, and identifying new markets for Kentucky coal.

In carrying out the study, the Subcommittee received testimony from representatives of the Public Service Commission (PSC) on the use of the fuel adjustment clause by public utilities and how it affects fuel procurement. The information included how coal contracts are reviewed by the commission. Representatives of the Natural Resources and Environmental Protection Cabinet testified about the method used to allocate nitrogen oxide allowances; described the genesis of the state implementation plan to control nitrogen oxide; and provided a timetable for compliance and a breakout of how NO_x allowances were being distributed to new and existing emissions sources including electric generating units and large industrial boilers. The Subcommittee also received testimony from Ohio and Illinois officials about their state's programs to aid the coal industry.

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON
APPROPRIATIONS AND REVENUE**

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Rep. Bob Heleringer, VC
Sen. Dan Kelly
Rep. Jimmie Lee
Rep. Mary Lou Marzian
Rep. Thomas McKee
Rep. Lonnie Napier
Rep. Fred Nesler
Sen. Larry Saunders
Rep. Charles L. Siler
Sen. Robert Stivers
Sen. Johnny Ray Turner
Rep. Jim Wayne
Sen. Jack Westwood

Rep. Rocky Adkins
Rep. Dwight D. Butler
Rep. Mike Cherry, VC
Rep. Jack L. Coleman, Jr.
Rep. Jesse Crenshaw
Rep. Bob M. DeWeese, VC
Sen. Brett Guthrie
Rep. Joni Jenkins, VC
Sen. Alice Kerr
Sen. Bob Leeper, VC
Sen. Vernie McGaha
Sen. Ed Miller
Sen. Gerald A. Neal
Rep. Stephen R. Nunn
Sen. Dan Seum
Rep. John Will Stacy
Rep. Mark A. Treesh
Rep. John Vincent
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2003 REGULAR SESSION OF THE
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Subcommittees on Legislative Budget Review and Oversight

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Rep. Rob Wilkey, Co-Chair

Rep. John Bowling, Liaison Member	Sen. Walter Blevins, Liaison Member
Rep. Buddy Buckingham, Liaison Member	Rep. Jim Callahan
Rep. Phillip Childers, Liaison Member	Rep. Larry Clark
Sen. Alice Kerr, Liaison	Rep. Lonnie Napier
Rep. Ruth Ann Palumbo, Non-Voting Ex-Officio	Sen. Katie Stine, Liaison Member
Rep. John Vincent	

LRC BUDGET REVIEW STAFF: Kim Phelps and Bettina Abshire

BUDGET REVIEW SUBCOMMITTEE ON EDUCATION

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Rep. John Will Stacy, Co-Chair

Rep. Joe Barrows	Sen. Lindy Casebier, Liaison Member
Rep. Barbara White Colter	Rep. Gippy Graham, Liaison Member
Rep. Jodie Haydon, Liaison Member	Rep. Mary Lou Marzian
Rep. Charles Miller, Liaison Member	Rep. Frank Rasche, Non-Voting Ex-Officio
Sen. Ernesto Scorsone, Liaison Member	Rep. Mark Treesh

LRC BUDGET REVIEW STAFF: Charles Shirley, Dudley Cotton, Wanda Meeks, and Bettina Abshire

**BUDGET REVIEW SUBCOMMITTEE ON
GENERAL GOVERNMENT, FINANCE, AND PUBLIC PROTECTION**

**Sen. Brett Guthrie, Co-Chair
Rep. Royce Adams, Co-Chair**

Rep. John Adams, Liaison Member Rep. Carolyn Belcher, Liaison Member
Rep. Robert R. Damron Sen. Ed Miller
Sen. Albert Robinson, Liaison Member Rep. Charles L. Siler
Rep. Roger Thomas, Non-Voting Ex-Officio Rep. Jim Thompson, Liaison Member
Rep. Jim Wayne

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**BUDGET REVIEW SUBCOMMITTEE ON
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Rep. Jimmie Lee, Co-Chair**

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Rep. Bob DeWeese Rep. Bob Heleringer
Rep. Joni Jenkins Sen. Daniel Mongiardo, Liaison Member
Rep. Stephen Nunn Sen. Richard Roeding, Liaison Member
Rep. Dottie Sims, Liaison Member Rep. Kathy Stein, Liaison Member

LRC BUDGET REVIEW STAFF: Wanda Meeks, Cindy Murray, and Spring Emerson

**BUDGET REVIEW SUBCOMMITTEE ON
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Rep. Jesse Crenshaw, Co-Chair**

Rep. Ira E. Branham, Liaison Member Rep. Dwight Butler
Sen. Ray Jones, Liaison Member Rep. Gross Lindsay, Non-Voting Ex-Officio
Rep. Thomas McKee Rep. Arnold Simpson, Liaison Member
Sen. Robert Stivers Rep. Robin L. Webb
Rep. Brent Yonts, Liaison Member

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Sen. Charlie Borders, Liaison Member

Rep. Jack Coleman

Rep. Danny Ford

Sen. Virgil Moore, Liaison Member

Rep. William U. Scott, Liaison Member

Rep. Eddie Ballard, Liaison Member

Rep. Mike Cherry

Rep. Hubert Collins, Non-Voting Ex-Officio

Sen. Paul Herron, Jr., Liaison Member

Rep. Fred Nesler

Sen. Ed Worley

LRC BUDGET REVIEW STAFF: Steve Mason and Spring Emerson, Assistant

Ex-Officio Members:

Sen. Richard Sanders, Jr.

Rep. Harry Moberly, Jr.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

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

COMMITTEE ACTIVITY

During the 2002 interim, the Interim Joint Committee on Appropriations and Revenue held four meetings prior to November 1, 2002.

At its first meeting, held on July 16, 2002, the committee heard reports on the national economy, Kentucky's economy, the performance of other state economies, and Kentucky's revenue receipts for FY 2002. At its second meeting, held on August 22, 2002, the committee received year-end revenue and expenditure account close-outs for the 2002 fiscal year, which ended June 30, 2002. At its last two meetings, the committee focused on House Concurrent Resolution 13, enacted by the 2002 General Assembly, directing the committee to study the Kentucky Enterprise Zone Program. The committee traveled to Ashland, Kentucky, for its third meeting on September 26, 2002. The committee toured the Ashland area enterprise zone in the morning and held its meeting that afternoon. The committee heard from local representatives, interested citizens, and business representatives participating in the Ashland Area Enterprise Zone Program. The committee received an analysis of Kentucky's Enterprise Zone Program, done by Deloitte & Touche, at the request of the Kentucky Chamber of Commerce, Associated Industries of Kentucky, and a coalition of Kentucky businesses. The committee also received an update on Kentucky's Tax Amnesty Program. House Bill 614, enacted during the 2002 Regular Session, directed the Kentucky Revenue Cabinet to conduct a tax amnesty program that would give taxpayers the opportunity to pay certain taxes that were due on or before December 1, 2001, without paying any interest, penalties, or fees and without prosecution. The committee's fourth meeting was held in northern Kentucky in the Covington/Newport area. The committee toured businesses in the Northern Kentucky Enterprise Zone Program in the morning and heard from local officials about their program at its meeting that afternoon.

The committee reviewed quarterly allotment and appropriation revisions but did not take any action since there was not a budget in place.

The committee did not take action on any prefiled bills.

SUBCOMMITTEE ACTIVITY

Budget Review Subcommittees

The Interim Joint Committee on Appropriations and Revenue is organized into six budget review subcommittees. Their purpose is to review revisions to the enacted 2000-2002 budget and to monitor the budgetary operations and programs of state government as well as address agency budget needs for the 2002-2004 biennium.

The Budget Review Subcommittees did not meet during the 2002 interim.

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON
BANKING AND INSURANCE**

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

Sen. Lindy Casebier
Sen. Bob Jackson
Sen. Marshall Long
Sen. Albert Robinson
Sen. Larry Saunders
Rep. John Adams
Rep. Sheldon Baugh
Rep. James Comer
Rep. Ron Crimm
Rep. Mike Denham
Rep. Danny Ford
Rep. Dennis Horlander
Rep. Frank Rasche
Rep. Dottie Sims
Rep. Ken Upchurch
Rep. Rob Wilkey

Sen. Julie Denton
Sen. Ray Jones II
Sen. R.J. Palmer
Sen. Richard Sanders, Jr.
Sen. Dan Seum
Rep. Paul Bather
Rep. Ira Branham
Rep. Brian Crall
Rep. Robert Damron
Rep. Joseph Fischer
Rep. James Gooch
Rep. D. Pasley
Rep. Steve Riggs
Rep. Roger Thomas
Rep. Susan Westrom

LRC STAFF: Greg Freedman, Emily Bottoms, Rhonda Franklin, and Jamie Griffin

**PRESENTED TO THE
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2003 REGULAR SESSION OF THE
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INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

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

COMMITTEE ACTIVITY

The Interim Joint Committee on Banking and Insurance met three times during the 2002 interim.

The first meeting of the interim was held on September 9, 2002, in Louisville, Kentucky in conjunction with the Kentucky Bankers Association Annual Convention. The Regional Director of the Federal Deposit Insurance Corporation (FDIC) addressed the Committee regarding the condition of banks in Kentucky and trends in the banking industry. The FDIC supervises 167 state chartered banks in Kentucky that are not members of the Federal Reserve System. Although the number of banks decreased by six between March 2001 and March 2002, bank assets increased by \$2 million. The number of weak institutions had increased seven percent over the one-year period. There were twenty-seven poorly managed institutions in 2002, which was up from the twenty-five institutions in 2001. Overall, Kentucky banks were deemed to be doing very well.

The Committee held its second meeting on October 22, 2002. Two owners of a small business in Hopkinsville, Kentucky, that employs twelve persons in two locations told the Committee that their health insurance premiums for the business in the last eighteen months had increased from \$20,000 to \$40,000 and the latest quote was \$100,000. The owners said if something is not done, many business will have to consider moving across the border into another state.

The Committee discussed medical malpractice insurance with representatives of the Kentucky Medical Association, Kentucky Hospital Association, a medical malpractice insurer, and the Kentucky Academy of Trial Attorneys. The Kentucky Medical Association stated that a clinic in Corbin had to close for thirty days while it tried to replace its medical malpractice insurance when its insurer refused to renew coverage. Medical school applications were down six percent last year and ten percent over the last two years. When one obstetrician leaves the state, 140 persons are left without a physician. The medical liability system affects quality of care because persons who cannot see a physician go to the emergency room for services the emergency room was never intended to provide. According to the testimony of a medical malpractice

insurer, there are thirty-five insurers in Kentucky offering medical malpractice coverage but only five companies represent about sixty percent of the business. About ten percent of doctors have a claim during a policy period. Most medical malpractice insurers have ninety percent of their reserves invested in bonds. The representative of trial attorneys testified that premiums have increased due to poor business practices of insurers. It was recommended that Kentucky consider establishing a reinsurance fund, restoring the twenty-five percent rate band, and mandating discounts for doctors who do not engage in malpractice.

The Committee held its third meeting on November 26, 2002. A representative of the Transportation Cabinet spoke on the state's internet motor vehicle registration system. In November 2001, the state began a pilot project in Jefferson County and in July 2002 began operating the system statewide. Five companies currently participate on a voluntary basis. The system is not available for fleets, commercial lines, and self-insured vehicles. The Committee also discussed 2003 BR 133, which was prefiled on August 30, 2002. The bill would require the AVIS database to include information on insurance on motor vehicles.

The Committee did not take action on any prefiled legislation during the interim.

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON
ECONOMIC DEVELOPMENT AND TOURISM**

**Sen. Katie Stine, Co-Chair
Rep. Thomas Kerr, Co-Chair**

Sen. Dick Adams	Rep. Royce Adams
Rep. Rocky Adkins	Rep. Eddie Ballard
Rep. Carolyn Belcher	Sen. Walter Blevins
Sen. David Boswell	Rep. John Bowling
Rep. Scott Brinkman	Rep. Buddy Buckingham
Rep. Perry Clark	Rep. Phillip Childers
Rep. Howard Cornett	Rep. Brian Crall
Rep. Jesse Crenshaw	Sen. Julie Denton
Rep. Tim Feeley	Rep. Charles Geveden
Rep. Gippy Graham	Rep. J. R. Gray
Rep. Keith Hall	Sen. Ernie Harris
Rep. Jodie Haydon	Rep. Jeffrey Hoover
Rep. Dennis Horlander	Sen. Bob Jackson
Sen. Alice Kerr	Rep. Stan Lee
Rep. Gross Lindsay	Sen. Vernie McGaha
Rep. Thomas McKee	Rep. Russ Mobley
Rep. Ruth Ann Palumbo	Sen. Joey Pendleton
Rep. Tanya Pullin	Rep. Tom Riner
Sen. Richard Roeding	Rep. Brandon Smith
Rep. Johnnie Turner	Rep. Ken Upchurch
Rep. Charles Walton	Rep. Mike Weaver
Rep. Robin L. Webb	

LRC STAFF: John Buckner, Laura Taylor, Karen Armstrong-Cummings, and
Cecilia Perry

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Rep. Scott Brinkman
Rep. Perry Clark
Rep. Jesse Crenshaw
Rep. Charles Geveden
Rep. Jeffrey Hoover
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Rep. Gross Lindsay
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Rep. Gippy Graham
Rep. Dennis Horlander
Rep. Stan Lee
Rep. Russ Mobley
Rep. Tom Riner
Rep. Charles Walton

Rep. Thomas Kerr, Ex-Officio
Sen. Katie Stine, Ex-Officio

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

JURISDICTION: Matters pertaining to commerce, industry, 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 2002 Interim, the Interim Joint Committee on Economic Development and Tourism met twice. The Task Force on Economic Development did not meet during the course of the interim.

At its first meeting on August 15, the committee learned about tourism development challenges facing the Commonwealth, particularly in light of the events of September 11, 2001. The Deputy Secretary of the Tourism Development Cabinet said that tourism is a major part of Kentucky's economy and that the tourism industry as a whole experienced declines in economic activity because of the events of September 11 and also because of a national economic downturn. However, he continued by stating that tourism-related revenues had stabilized during the summer and that, in general, tourism businesses are faring well.

The Deputy Secretary discussed promoting private sector tourism development. He noted that the passage of the Tourism Development Act in 1996 has resulted in seven large-scale projects that have been approved. A new loan program approved by the 2000 General Assembly, designed to assist smaller tourism projects, has resulted in three loans being approved for a diverse mix of businesses—a rock climbing venture, a bed and breakfast inn, and an equine center.

The Deputy Commissioner of Travel gave an update on various marketing strategies designed to enhance awareness of tourism in the Commonwealth. In addition to traditional marketing efforts that focus upon print advertising and radio, the Department of Travel Development has also developed in-state programs that focus on family members or friends visiting Kentucky. Their goal is to educate tourism hosts by providing various printed materials about tourism sites.

Questions were raised concerning the definition of eligible tourism projects in regard to large-scale, unique restaurants. Some legislators contended that such facilities share many similarities with themed destination attractions and should be eligible for tax incentives. The Deputy Secretary said that he understood the concerns expressed, but the Cabinet was statutorily required to preclude restaurants of any size and characteristics from program eligibility.

Committee members also posed questions concerning efforts made by the Tourism Development Cabinet to expand tourism opportunities at Fort Knox, the Kentucky Horse Park, state golf courses, and at the newly created Pine Mountain Trail State Park. In regard to golf course projects, the Deputy Secretary said that approximately \$17.5 million is needed to completely finish these projects, but that during the last legislative session the Cabinet was asked to determine an amount that was needed to allow the courses to be playable but not totally completed. The Commissioner of the Department of Parks stated that the golf course programs were not appropriated under the Governor's spending plan.

Several committee members asked if the fees charged at state-owned golf courses are comparable to private courses in the same vicinity. The commissioner said that every attempt is made to prevent undercutting the private sector and that no complaints had been received by the Cabinet from private operators in regard to price competition.

The committee heard a presentation by the Secretary of the Cabinet for Economic Development concerning economic development challenges facing the Commonwealth and the strategies undertaken to address them. Information was presented showing that the state is doing well economically in comparison with other states. Some of the major economic challenges the cabinet is addressing concerns business retention. Across the country companies are experiencing cut backs, and the goal of the cabinet is to prevent that from happening in Kentucky. Several companies in Kentucky have experienced major expansions. New job opportunities totaling 124,800 have come from existing business. The Secretary said that Kentucky's per capita personal income is a major challenge but progress is being made to keep pace with national changes. Annual poverty rate declines in the state are doing well, with Kentucky having the twelfth largest percentage decrease in the country. Manufacturing continues to be a great influence in our economy. The Secretary also added that direct foreign investments enable the economy of the state to stay strong. Budget problems exist due to Kentucky's unemployment rates and the fact that our economy is driven by sales tax and individual income tax. Education continues to be a challenge but gains are being made from year to year.

The Secretary concluded by explaining the various international ventures made by the cabinet with the Department of Agriculture to increase Kentucky exports. He stated that the office in Mexico is a joint venture between the cabinet and the Department of Agriculture, but that at present there has been no investment activity coming from Mexico to Kentucky. The cabinet is presently working with Kentucky businesses either to pursue missions or take groups to Mexico to introduce them to potential buyers. There

have also been cattle opportunities in Mexico. There are also offices in Japan and Belgium, but that each market presents its own unique set of challenges and that each office focuses heavily on reverse investment opportunities.

In response to a request by the committee co-chair to discuss the Corporation for Enterprise Development's 2001 Development Report Card, the committee also heard an overview presentation by an LRC economist in regard to key economic indicators and industrial sectors in the Commonwealth. He indicated that the report is raw data and not completely accurate. Both the national economy and Kentucky's economy have experienced a recent contraction. Approximately six percent of employment growth during the expansion has been lost during the recession. There are four sectors that have shown increases in employment throughout the recession: mining, services, construction and finance insurance and real estate. The manufacturing sector has experienced the largest losses during the recession.

At its October meeting, the committee heard testimony given by the Executive Administrator of the Cabinet for Economic Development in regard to KEDFA resolution 02-1, which authorized the creation of the Department for Regional Development. The committee voted unanimously to concur with the reorganization plan.

The Commissioner of the Department of Business Development, Cabinet for Economic Development, discussed the cabinet's marketing initiative and current projects that have been implemented. The department helps to design projects to reach business leaders outside the state. Because the cabinet had decided to devote a limited amount of resources toward print advertising, the cabinet elected to place ads in site location publications in a more opportunistic fashion. For example, when Site Selection magazine selected Kentucky second in the nation in 2001 for job creation per capita, it ran an advertisement in that same issue. The cabinet recently implemented a direct mail campaign designed to reach individuals such as plant managers at existing Kentucky manufacturing locations, executives at the headquarters of companies that have Kentucky locations, executives at fast growing companies as identified on the INC 500, site location consultants, and a variety of other business leaders. The cabinet also participates in various tradeshow events to obtain direct contact with people in many industries. Their most cutting-edge marketing tool, however, involves the Economic Development Information System (EDIS). This system is the internal, fully functional, GIS system used for industrial site map production and analysis. It also performs web based tool functions with a detailed site building and community information network available twenty-four hours a day, seven days a week. The director of the Site Evaluation/GIS Division gave a presentation of the capabilities of the system.

The commissioner stated that the Cabinet strongly encourages communities and local economic development agencies to link their web sites with the Cabinet's so that businesses may more easily find needed information. However, the commissioner stated that only seventeen communities have done so. These communities are Bowling Green (Warren County,) Elizabethtown (Hardin County), Morganfield (Union County), Hopkinsville (Christian County), Boyd, Greenup, McLean, Henderson, Bardstown

(Nelson County), Hancock County, Dawson Springs (Hopkins County), Mt Sterling (Montgomery County), Lexington (Fayette County), Campbellsville (Taylor County), Frankfort (Franklin County), Owenton (Owen County), Paducah (McCracken County), and Grant County. The commissioner asked committee members to help encourage their local communities to participate in the efforts of this website.

The committee heard testimony from representatives of the Kentucky Commission on Small Business Advocacy. The chairman of the Commission reported on the federal regulatory burdens placed on Kentucky small businesses. He pointed out that the regulatory impact of federal regulations for a small business with fewer than twenty employees translated roughly into \$7000 dollars per employee. He stated that Kentucky small businesses are spending 9.1 billion dollars annually to comply with federal regulations. The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) required every federal agency within one year of the passage of this act to adopt a policy for the waiver and reduction of penalties for small businesses under the appropriate circumstances. He asked the committee to help with a state waiver reduction penalty policy for small businesses, and also asked the committee to consider a resolution that would involve contacting state agencies that regulate small businesses and asking them for feedback on what effect a state waiver policy would have on their department.

Finally, the committee received an update on 2002 HB 525, which revamped state venture capital initiatives. One major part of expanding the venture capital community throughout the Commonwealth was a sweeping amendment to the Kentucky Investment Fund Act making it more effective. It provides a greater incentive for investors to invest in new economy and old economy projects with Kentucky small businesses. Briefly, the Kentucky Investment Fund Act provides a forty percent state tax credit for venture capital investors who are committed to investing in small Kentucky businesses. The Act has some criteria to ensure that the investment funds are credible and are used to further the purpose of the Act and to maintain a focus on Kentucky businesses.

Another important amendment to the Act was the expanded ability for all investors having Kentucky tax liability to participate and benefit from this program. Regulations are currently being developed by the Office of the New Economy and the Economic Development Cabinet to clarify how the credits are to be allocated.

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON
EDUCATION**

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

Rep. Larry Belcher	Sen. Walter Blevins
Rep. Robert Buckingham	Rep. Mike Cherry
Rep. Jack Coleman, Jr.	Rep. Hubert Collins
Rep. Barbara White-Colter	Rep. Jon Draud
Rep. Tim Feeley	Rep. H. "Gippy" Graham
Sen. Brett Guthrie	Sen. Ray Jones II
Sen. Alice Forgy Kerr	Sen. Vernie McGaha
Rep. Mary Lou Marzian	Rep. Reginald Meeks
Rep. Charles Miller	Rep. Harry Moberly
Rep. Russ Mobley	Sen. Gerald Neal
Rep. Rick Nelson	Sen. R.J. Palmer II
Rep. Tom Riner	Sen. Daniel Seum
Rep. Charles Siler	Rep. Arnold Simpson
Rep. Dottie Sims	Rep. Kathy Stein
Sen. Robert Stivers	Rep. Gary Tapp
Rep. Jim Thompson	Rep. Mark Treesh
Sen. Johnny Ray Turner	Rep. Charles Walton
Sen. Jack Westwood	Sen. Ed Worley

LRC STAFF: Audrey Carr, Ethel Alston, Sandra Deaton, Jonathan Lowe,
Lisa Moore, and Kelley McQuerry

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON POSTSECONDARY EDUCATION

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

Rep. Hubert Collins
Sen. Ray Jones II
Rep. Russ Mobley
Sen. R.J. Palmer II
Rep. Charles Siler
Rep. Kathy Stein

Rep. Barbara White-Colter
Rep. Charles Miller
Sen. Gerald Neal
Rep. Tom Riner
Rep. Dottie Sims
Rep. Mark Treesh

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

SUBCOMMITTEE ON THE TEACHING PROFESSION

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

Rep. Jack Coleman
Rep. Tim Feeley
Sen. Alice Forgy Kerr
Rep. Harry Moberly
Rep. Arnold Simpson
Sen. Johnny Ray Turner

Rep. Jon Draud
Rep. H. "Gippy" Graham
Rep. Reginald Meeks
Rep. Rick Nelson
Sen. Robert Stivers
Rep. Charles Walton

Rep. Frank Rasche, Ex-Officio

SUBCOMMITTEE ON VOCATIONAL EDUCATION

Sen. Vernie McGaha, Co-Chair
Rep. Buddy Buckingham, Co-Chair

Rep. Larry Belcher
Rep. Mike Cherry
Rep. Gary Tapp

Sen. Walter Blevins
Sen. Daniel Seum
Sen. Ed Worley

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

INTERIM JOINT COMMITTEE ON EDUCATION

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

COMMITTEE ACTIVITY

The Interim Joint Committee on Education met four times between August 2002 and November 2002.

The Committee was organized into three subcommittees: Postsecondary Education, the Teaching Profession, and Vocational Education. Following is a summary of activity of the full committee and each subcommittee.

Major topics before the Interim Joint Committee on Education were issues related to student data collection; the Commonwealth Accountability Testing System (CATS), including a report on the 2000-2002 accountability cycle; a report of new student financial programs to recruit and retain persons in teaching and to decrease specific teacher shortages; implementation of the federal law, "No Child Left Behind"; initiatives to support postsecondary education; and the Support Education Excellence in Kentucky (SEEK) program.

In performing its statutory legislative oversight responsibilities, the committee reviewed twenty-three administrative regulations under the review process established in KRS Chapter 13A. All of the regulations were approved. The committee also reviewed four Executive Orders.

Subcommittee on Postsecondary Education

The Subcommittee on Postsecondary Education met four times over the course of the interim and heard testimony from a variety of professionals and education agencies, including the Council on Postsecondary Education, postsecondary education institutions, the Kentucky Higher Education Assistance Authority, and the Governor's Office of Policy and Budget. The subcommittee reviewed postsecondary student data and funding data.

Major topics discussed by the subcommittee were a salary schedule for the Kentucky Community and Technical College System, as part of implementation of postsecondary education reform; the efforts of P-16 councils to improve the alignment and collaboration between preschool, elementary, secondary, and postsecondary

education systems; postsecondary education tuition and savings plans and efforts to keep college affordable for Kentucky families; adult education and literacy in Kentucky and the implementation of 2000 RS Senate Bill 1; and postsecondary education finance in times of fiscal constraint and increased demand on the postsecondary education system.

Subcommittee on the Teaching Profession

The Subcommittee on the Teaching Profession was charged to conduct a study of the effectiveness and efficiency of the Kentucky Principal Intern Program (KPIP) and the Kentucky Teacher Intern Program (KTIP) and to make recommendations to the Interim Joint Committee on Education regarding any appropriate changes by September 2003. Over the course of four meetings, the subcommittee received testimony from officials of the Education Professional Standards Board, participating public school teachers and administrators, and faculty and administrators at public and private postsecondary education institutions.

The subcommittee heard reports regarding a pilot program funded by a grant from the U. S. Department of Education to expand the teacher intern program to a two year program; the implementation of the web site training module for KTIP committees; the involvement of the Kentucky independent and private colleges in the intern programs; public school and university resources and capacity of faculty to support the intern programs; and teacher education and preparation as a university-wide commitment and collaborative effort of colleges of education and other academic departments.

During the next interim, the subcommittee will consider a draft report and adopt recommendations for presentation to the Interim Joint Committee on Education for possible action in the 2004 Regular Session of the General Assembly.

Subcommittee on Vocational Education

The Subcommittee on Vocational Education was created as a result of House Bill 185 (2001) that requires the Interim Joint Committee on Education to conduct a study relating to secondary career and technical education and to file a report by August 1, 2003. The subcommittee met four times and heard a variety of reports and recommendations from agencies including the Kentucky Department of Education, the Department for Technical Education, the Education Professional Standards Board, and the Kentucky Community and Technical College System. The subcommittee made a site visit to a locally operated secondary career technical center in Shelby County and to a state-operated area technology center in Franklin County.

The subcommittee will review a draft report next interim and adopt recommendations for presentation to the Interim Joint Committee on Education for possible action in the 2004 Regular Session of the General Assembly.

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON
HEALTH AND WELFARE**

**Sen. Julie Denton, Co-Chair
Rep. Tom Burch, Co-Chair
Sen. Tom Buford, VC
Rep. Paul Bather, VC
Rep. Bob DeWeese, VC
Rep. Steve Nunn, VC
Rep. Kathy Stein, VC**

Rep. John Arnold
Rep. Kevin Bratcher
Rep. Robert Damron
Rep. Bob Heleringer
Rep. Joni Jenkins
Rep. Mary Lou Marzian
Sen. Daniel Mongiardo
Sen. Joey Pendleton
Sen. Richard “Dick” Roeding
Sen. Katie Stine

Sen. Charlie Borders
Rep. Brian Crall
Rep. James Gooch
Sen. Paul Herron
Sen. David Karem
Sen. Ed Miller
Rep. Ruth Ann Palumbo
Rep. Jon David Reinhardt
Sen. Dan Seum
Rep. Susan Westrom

LRC STAFF: Robert Jenkins, CSA; Barbara Baker, Eric Clark, DeeAnn Mansfield,
Murray Wood, Gina Rigsby, and Cindy Smith

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

JURISDICTION: Matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; probation and parole; garbage and refuse disposal; public assistance; correctional penitentiaries; child welfare; adoptions; mothers' aid and assistance to children; children's homes; incompetents; poor persons and poorhouses; confederate pensions; aid to needy blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; restaurants and trailer park regulations; sanitation plants; sanitation districts; frozen food locker plants; alcoholism; physicians, osteopaths and podiatrists, embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

COMMITTEE ACTIVITY

During the 2002 Interim, the Interim Joint Committee on Health and Welfare held four meetings from *sine die* adjournment of the 2002 Regular Session through November 30, 2002. A fifth meeting is scheduled for December 18, 2002.

The committee was organized into three subcommittees: End-of-Life/Long-Term Care, Families and Children, and Senior Prescription Drug. Following is a summary of activities by the committee and subcommittees.

Major Issues Considered by the Committee

Domestic Violence

The Epidemiologist for the Intimate Partner Violence Surveillance Project, at the University of Kentucky's Injury Prevention and Research Center testified that Kentucky had received a grant of \$1.5 million from the Centers for Disease Control and Prevention to develop a public health surveillance system for intimate partner violence (IPV) over a five-year period. The project is conducted at the University of Kentucky under a contract with the Cabinet for Health Services, with a goal of building a public health surveillance system that captures all reported cases of intimate partner violence in Kentucky. Public health surveillance is used to identify the age groups, racial groups, and geographic areas at greatest risk so that interventions may be targeted more effectively.

The 2001 Intimate Partner Violence's survey of Kentucky women provided the following information: (1) the prevalence of IPV in Kentucky is higher than that of the nation on average; (2) for many women, abuse is severe; (3) an estimated 587,300 adult women in Kentucky have experienced IPV at some point in their lifetime; and (4) IPV has an impact on health status and on health behaviors.

The Executive Director of the Governor's Office of Child Abuse and Domestic Violence Services stated that significant gaps exist in understanding the extent and causes

of violence against women and the impact and effectiveness of preventive and treatment interventions. To begin filling those gaps, the Panel on Research on Violence Against Women has recommended a research agenda to facilitate development in four major areas: (1) preventing violence against women; (2) improving research methods; (3) building knowledge about violence against women; and (4) developing the research infrastructure.

Kentucky has received a \$2.5 million Byrne Grant to address child sexual abuse. The projects funded under the Byrne Grant focus on technology, forensic interviewing, and multidisciplinary teams. The Byrne Grant technology initiatives and data systems allowed Kentucky to (1) create a statewide data system for all child advocacy centers; (2) create a statewide data system for multidisciplinary teams; (3) access data for child protective services workers while on-site at a child advocacy center; and (4) create a statewide data system for prosecutors.

Early Childhood Development

The Executive Director of the Governor's Office of Early Childhood Development provided information about the Healthy Babies Campaign, the Folic Acid Campaign, the Substance Abuse Treatment Program for Pregnant and Post-partum Women, the Universal Newborn Hearing Screening, the Immunization Program for Underinsured Children, the Eye Examinations for Children Program, the Oral Health Education and Prevention Program, the HANDS Voluntary Home Visiting Program, the Early Childhood Mental Health Program, Children's Advocacy Centers, Access to Child Care Subsidy, STARS for KIDS NOW, Scholarship Fund for Childcare Providers, Increased Licensing Personnel, Health Start in Childcare, Community Early Childhood Council Funding, First Steps: Kentucky's Early Intervention System, the Early Childhood Development Authority, the Business Council, the Professional Development Council, the Evaluation of Initiative, training, and Child Safety in Childcare.

Program participants testified about their positive experiences with the HANDS Program and the KIDS NOW scholarship program, which provides financial assistance for coursework in early childhood education.

Elder Abuse

A Deputy Secretary for the Cabinet for Families and Children, the Director of the Jefferson County Police Department's Crimes Against Seniors Unit, a professor of the Ph.D. Program in Gerontology at the University of Kentucky's School of Public Health, and a representative of the Elder Abuse Commission spoke about the incidence of elder abuse, examples of abuse, and recommendations for reducing such abuse. In 2000, there were 28,507 reports of abuse that were investigated by the Kentucky Adult Protective Services Office. Of these, 17,210 allegations of abuse were substantiated. Seventy-six percent of the perpetrators were male, and approximately eighty percent of abuse occurs from a spouse or intimate partner. Victims are predominately female, and the largest age category is in the "over 80 years of age" range. Types of abuse include self-neglect,

physical abuse, caregiver neglect, financial exploitation, emotional or verbal abuse, and sexual abuse. Physical abuse accounts for forty percent of the elder abuse in Kentucky.

Recommendations for response include removing the criminal violations for abuse from the statutes dealing with adult protective services and clearly defining the penalties within the criminal code. Adults should be defined as “over age 65,” but the requirement that they be “dysfunctional” should be removed. Expedited trials should be explored in cases in which the victim’s health may be endangered. Good faith reports of abuse would be given immunity, and the requirement that the defendant must know that the victim is actually over age 65 should be removed.

Requirements to improve adult protective services would involve reenacting the Elder Abuse Commission, clarifying agency roles in a seamless system of protective services for vulnerable adults, mandating cooperation among public and private agencies in the protection of vulnerable adults while making appropriate provisions for confidentiality, clarifying and strengthening the definitions of “abuse,” “exploitation,” and “neglect,” removing the stigmatizing definition of “vulnerable adult,” and strengthening agency access to records, including financial records, that are necessary to conduct thorough investigations.

Electronic Health Initiatives

The committee heard testimony concerning a proposed electronic health network for Kentucky. One relevant prefiled bill is 03 BR 107, AN ACT relating to the electronic health network and declaring an emergency, sponsored by Representative Steve Nunn. A presentation on this topic was received by the Director of the Integrated Clinical Information System (ICIS) Project at the University of Kentucky, the Director of Health Informatics at the University of Louisville, and Representative Nunn.

The Director of Health Informatics stated that better access to health information and health care is essential because 105 of the 120 Kentucky counties are federally designated as medically underserved, and accessing specialty care often requires travel to distant medical centers. The existing telehealth network provides increased access to clinical and educational programming, consisting of sixty participating sites, two training centers from the University of Kentucky, two training centers from the University of Louisville, the Kentucky Telehealth Network Board, and the Governor’s Office of Technology.

The Telehealth Board is developing an evaluation plan for the optimal deployment of telehealth resources. The Board recommends (1) expanding electronic public health record system (e-PHRS) statewide for registrations and demographics; (2) making use of other e-PHRS applications such as patient referral and patient encounter for telehealth purposes; (3) adding specific telehealth application to e-PHRS; and (4) utilizing the application service provider (ASP) hosting model. The e-health network is a strategy to reduce cost and improve quality in health care, and has administrative, financial, clinical, and research components.

03 BR 107 would reorganize the Telehealth Board as the Kentucky E-health Board, attach the board to the Governor's Office of Technology, establish membership and responsibilities of the board, require the board to conduct a feasibility study of various network models, require selected models to comply with HIPAA regulations, and require submission of results of the study and selected models to the Legislative Research Commission.

The Director of the ICIS Project stated that the University of Kentucky is implementing an integrated clinical information system as a tool to support quality patient care, facilitate business process redesign, and maximize benefit realization at the University of Kentucky Clinical Medical Center. The initial focus is to improve access and a knowledge-based physician order entry, while also being HIPAA-compliant. While the cost of the project is estimated at \$64 million, savings have been estimated to be up to \$193 million, realized by a reduction in adverse drug events, reduction in paper forms, improved medication utilization, and a reduction in ancillaries. The future of the ICIS Project is to have daily nurse and physician documentation on the computer, to explore expanding access to physicians with frequent referrals to the U.K. Medical Center, to explore a patient's ability to access verified results and provide and update health history, and to explore linkages to a statewide e-health system.

Homelessness in Kentucky

The Executive Director of the Homeless and Housing Coalition of Kentucky and the Executive Director of the Hazard/Perry County Community Ministries, Inc. testified about homelessness and supportive services for housing. In Kentucky, it is estimated that approximately 50,000 people are homeless annually. A study released by the National Low Income Housing Coalition indicates that a person in Kentucky must earn \$9.46 per hour, almost twice the minimum wage, to afford a modest two-bedroom apartment. Minimum wage earners must work seventy-four hours per week to afford a two-bedroom unit.

People with disabilities who receive Social Security Incomes, also known as SSI, subsist on \$540 per month. People face high costs of housing and appropriate supports as well. The most difficult challenge for non-profit organizations working in their communities is to improve decent, stable, and affordable housing, with appropriate supports that would include case management, access to emergency services and medication, and on-site support. Additionally, integrated mental health and substance abuse treatment opportunities are essential because the lack of these services has been found to be an important actor in chronic homelessness.

Homeless shelters encounter problems involving the release of people with mental and physical limitations into the care of the emergency shelter system. A homeless service outreach coordinator said that if someone is not elderly or disabled and has good references, there is at least a six-month wait for supported housing. Kentucky has provided for the Affordable Housing Trust Fund, which supports housing services through unclaimed lottery winnings.

Housing in rural eastern Kentucky has passed crisis stage. While Kentucky has done a good job of improving economic development in rural areas, it has not kept up with the demand for affordable housing in those same areas. Affordable housing is critical in keeping young people in the mountains, stabilizing families, educating children, and supporting schools and municipalities. Local banks, businesses, non-profit organizations, and the private sector should work together to find solutions. As future economic development policies are developed, the state should keep in mind that housing is the foundation, and economic development will make little difference to the people if they have no place to live.

Medicaid Update and Budget Shortfall Discussion

The Secretary of the Cabinet for Health Services and the Governor's Special Medicaid Advisor explained that, based on the January 3, 2002, consensus forecast, the projected expenditures for State Fiscal Year (SFY) 2002 will be \$3,541,866,200; SFY 2003, \$3,734,705,800; and SFY 2004, \$3,939,927,200. The projected deficit for SFY 2002 will be \$258,714,800; SFY 2003, \$618,193,600; and SFY 2004, \$817,663,800. Because approximately seventy percent of Medicaid dollars are federal funds, Kentucky's share will be about thirty percent of these deficit amounts.

The Medicaid Steering Committee has identified six strategies to restructure Medicaid: (1) strengthen program integrity to assure services are going to truly needy persons; (2) focus on utilization management and KenPAC, the managed care component of Medicaid; (3) restructure Medicaid rates; (4) reorganize duties within the Department for Medicaid Services; (5) retain an Administrative Services Organization and a Pharmacy Benefits Manager; and (6) fully access all available federal matching funds and revenue. Immediate actions to balance the Medicaid budget include a management initiative/carry forward, an increased provider tax on expenditures, budget neutral collections, intergovernmental transfers, third party liability collections/cost avoidance, pharmacy management initiatives, federal credits for agency accounts receivable, cost report/audit settlements (collections), and a cash management initiative.

The implementation of the one dollar copayment for pharmaceuticals in the Medicaid outpatient drug program received considerable discussion. Because pharmacists may under agency regulations refuse to dispense a pharmaceutical if a Medicaid recipient has not made a copayment in the past, members requested the Secretary to monitor the copayment initiative to determine the number of eligible recipients that were being denied necessary drugs and whether this would increase other Medicaid expenditures for office visits and emergency room care.

The Director of the Office of Kentucky Legal Services Programs testified that under federal and state law the Department for Medicaid Services could not permit a Medicaid service provider to deny a service if an eligible recipient were unable to make the required co-payment.

It was explained that the prior authorization process has been completely revised as a result of legislation from the 2002 Regular Session. The Pharmacy and Therapeutic (P&T) Committee has been meeting and its recommendations are being followed. Prior authorization will be required for atypical psychotropic drugs, and authorization will depend on the use of a prior trial of another, less costly drug. Deference will be given to the prescriber as to whether the patient has had an adequate trial with another drug.

The Clinical Pharmacist for the Department for Medicaid Services explained that Kentucky's prescription utilization at retail had increased an average of six percent per year from 1992 to 2001. Seventy-seven percent of the Medicaid recipients utilize the prescription benefit, and the total prescription drug amount paid per member per month for recipients is between \$120 to \$130. More emphasis will be placed on the use of generic drugs, which typically are less costly. The Department also has developed a preferred Proton Pump Inhibitors (PPI) formulary to maintain appropriate utilization of chronic PPI while being cost effective.

The Pharmacy Benefits Manager for the Department explained that the prior authorization process involves a fax of a prescription to the claim processor. These requests are prioritized according to categories of urgency. The system averages approximately 20,000 requests per month with fifty-eight percent approved and forty-two percent denied.

Medical Malpractice

The Commissioner of the Department of Insurance testified that in December, 2001, the department had received notice that St. Paul Insurance Company, the third largest medical malpractice insurance carrier in Kentucky, would phase-out its business nationwide by non-renewing existing policies and refusing to write new ones. On July 12, 2002, the department held a public hearing to obtain more information about the availability and affordability of the medical malpractice market and to gather information regarding the various factors affecting premium costs. At this meeting, insurers indicated that the depressed economy had resulted in losses in all lines of insurance, causing them to increase premiums in all policies, including medical malpractice. They mentioned that the increased frequency of frivolous lawsuits, the increased costs of the legal system to defend the claims, and higher jury awards had also affected premiums. Physicians complained that the high cost of premiums was the result of the legal system and malpractice claims. Attorneys indicated that the economy had negatively impacted premiums and that the insurers were attempting to blame the legal system for losses that were truly the result of the companies' bad investment decisions. They suggested that physicians should consider creating a physician-owned company that would add competition to the market and help control rates.

Physicians testified that Kentucky should enact tort reform, which may include a cap on noneconomic and punitive damages, mandatory or voluntary arbitration, and attorney certification in the malpractice specialty. Attorneys testified that the number of jury awards against physicians actually has decreased, and that the reforms mentioned by

physicians would delay access to the justice system, would be unconstitutional, and would not result in any decrease in premiums. They further stated that other states with such caps also were experiencing increasing malpractice insurance premiums.

Public Health

The Commissioner of the Department for Public Health testified that Kentucky's first death from the West Nile Virus had occurred the previous week. The virus is most likely to affect a person whose immune system is already suppressed, leaving the person more susceptible to serious illness. People should consider common sense precautions, including not going out in the evening without the use of an insect repellent, wearing long-sleeve cotton shirts and pants, and avoiding mosquito breeding grounds. There is no vaccine or specific treatment for the virus.

Kentucky also faces major health problems associated with its increased incidence of obesity. The percentage of the state's children and adults who are obese exceeds the national average, and obesity leads to higher rates of diabetes, heart disease, strokes, and kidney failure. These diseases, often arising in older age, place an undue burden on the Medicaid and Medicare systems and increase the cost of health insurance for those other Kentuckians. The impact extends to fewer years in the workforce for our citizens and thus fewer paid taxes, earlier admissions to nursing home and increased demand for health care services.

The Commissioner encouraged prevention efforts such as increased exercise, change in diet, less television viewing, increased physical education in schools, increased health education in school, increased general public education, and increased provider knowledge. Some of Kentucky's current initiatives are NGA Best Practices—Chronic Disease, Diabetes Program and Coalition, Cardiovascular Disease Program, Exercise-Obesity, Tobacco Control, School Health Program, Cooperative Extension Service, and Local Health Department contributions.

Transportation Delivery Service

The Secretary of the Finance and Administration Cabinet testified before the Committee on two occasions to provide an update on the status of Kentucky's contract with a transportation broker in Jefferson County. This broker had contracted with the state and agreed to arrange through subcontractors for transportation services for persons taking part in various human services programs. Complaints had been received about the timeliness of the services, the failure to resolve complaints, and the failure to provide previously scheduled transportation for recipients who often have no other means of arranging for their travel. The Commissioner of the Department for Medicaid Services and the Director of the Human Services Transportation Program confirmed the complexity of the issues.

Testimony was received from the broker, many recipients of the services, and subcontractors. The broker stated that the state had not performed under the provisions of

the contract by failing to provide relied-upon data upon which the broker could adequately estimate the necessary travel arrangements. Without this data, the state could not reimburse the broker for services performed. Recipients and subcontracts confirmed many of the problems that had been summarized by the Secretary. Ultimately, it was announced that the Cabinet would seek termination of the broker's contract.

Referred Block Grant Applications

Pursuant to KRS 45.353, the committee held legislative hearings on five block grant applications: FFY 2003 Community Mental Health Services and Performance Partnership Block Grant, FFY 2003 Maternal and Child Health Block Grant, FFY 2003 Preventive Health and Health Services Block Grant, FFY 2003 Substance Abuse Prevention and Treatment Block Grant, and FFY 2003-04 Temporary Assistance for Needy Families (TANF) Block Grant.

Referred Administrative Regulations

In performing its statutory legislative oversight responsibilities, the committee reviewed twenty-four administrative regulations upon referral from the Administrative Regulation Review Subcommittee under the review process established in KRS Chapter 13A. All of the administrative regulations were approved, except the committee chose not to approve or disapprove 907 KAR 1:019.

SUBCOMMITTEE ACTIVITY

End-of-Life and Long-Term Care Subcommittee

The Subcommittee on End-of-Life and Long-Term Care met three times during the 2002 interim. The subcommittee focused on four major issues: pain assessment and management within the end-of-life and long-term care environment, the Kentucky Emergency Medical Board's "Do-Not-Resuscitate Order," the Department for Medicaid Services' "case-mix index," and the state of quality long-term care in Kentucky. A summary of the testimony and discussion on these issues follows.

Pain Assessment and Management

The subcommittee heard testimony from the President and Chief Executive Officer of Hospice of the Bluegrass and from a University of Louisville medical doctor who works with the Journey's End Project. The discussion was based on the Brown Study, which analyzed Medicare Hospice Benefits in all nursing homes that receive Medicare or Medicaid funding in five states. This study found that dying nursing home residents enrolled in hospice have a lower probability of hospitalization in the last thirty days of life than dying nursing home residents not enrolled in hospice. The study also found that residents who are receiving hospice care are more likely to be happy with their overall nursing home care. To receive hospice benefits, a patient must give up all other treatments and forms of care. It was emphasized that patients need increased access to

hospice by reducing the barriers caused by eligibility criteria and an overly aggressive regulatory environment.

As of 1998, forty-three states and the District of Columbia provided Medicaid hospice benefits to low-income beneficiaries. In 1996, hospice services comprised only 0.3% of the total Medicaid payments. Still, Medicare is the single largest source of coverage for hospice care, because most terminally ill Americans are over 65. Despite these Medicaid and Medicare statistics, over one-third of hospice patients are covered under other programs, including tens of millions of dollars in charitable donations that are raised by hospice organizations to provide services to patients with no health insurance. Further, 28% of all Medicare expenditures go toward caring for people in their last year of life, yet in 1998, Medicare spent only 1% of its budget on hospice care, in part because the majority of Medicare beneficiaries who are eligible for the Medicare hospice benefit never receive hospice care. It was noted that Hospice of the Bluegrass has saved hundreds of thousands of state Medicaid dollars within its own scope of hospice-provided services.

Do-Not-Resuscitate Orders

The Executive Director of the Kentucky Emergency Medical Services Board and the President of the Kentucky Ambulance Providers Association testified on the Emergency Medical Services (EMS) Board's "Do-Not-Resuscitate" (DNR) form. EMS personnel only honor DNR Orders that are completed on an EMS DNR form. Many people are not aware of this requirement by EMS personnel and are including their DNR Orders within advance directives and are not completing the form required by the EMS Board. It was recommended that various interested groups come together to create a universal "DNR" form so that EMS personnel's concerns about advance directives can be eliminated.

Department for Medicaid Services "Case-Mix Index"

The Deputy Commissioner of the Department for Medicaid Services presented information related to Medicaid's case-mix index for nursing homes, which is a numeric scale that describes differences in resource use or care between residents of a given population. A case-mix index reflects the amount of time contributed by each nursing staff category in providing care to the resident. The Department for Medicaid Services does not provide case mix reimbursement to nursing homes that provide hospice care to patients. Changes to the case mix program will not occur until the 2004 reimbursement guidelines are established.

The State of Quality Long-Term Care

An advocate for nursing home reform offered four legislative recommendations to improve the quality of long-term care throughout the state. The recommendations are as follows: (1) form a minimum staffing standards committee to establish mandatory minimum staffing requirements in long-term care facilities; (2) provide reoccurring funds

for a full-time ombudsman in every area development district; (3) re-establish the Task Force on Quality Long-Term Care that was created by 2001 Senate Concurrent Resolution 39; and (4) mandate severe penalties for violations of the statutory prohibition against providing advance notice of state inspections of long-term care facilities.

Families and Children Subcommittee

The Subcommittee on Families and Children met four times during the 2002 interim. discussion focused on accreditation for the state's child welfare services program, efforts to improve welfare services, early childhood development initiatives, and family mental health services. A summary of the testimony follows.

Child Welfare and Child Support

The subcommittee heard from representatives of the Cabinet for Families and Children that the Cabinet has received national accreditation from the Council on Accreditation for child welfare services. Kentucky is the first state to undergo and receive accreditation voluntarily. Next year the Cabinet will be participating in required case reviews for child welfare outcomes from the federal government. States may be financially rewarded or penalized based upon the federal review. The purposes of the review are to ensure conformity with federal child welfare requirements; to better understand what happens to the children and families in the welfare system; and to assist the states in enhancing their capacity to help children and families achieve positive outcomes. Kentucky's initial review will occur the first week in March 2003.

The number of children placed in out-of-home care has decreased, both for private child caring agencies and for state agency foster homes. There has been a significant increase in the number of children and families participating in kinship care placements, where relatives agree to temporary custody for a child that would otherwise be placed in foster care and the relative receives financial support, up to \$300 per month, for caring for the child. The funds for the kinship care program are TANF funds.

Reports were received about injuries from "Shaken Baby Syndrome." Awareness of the significant injuries that can result from violent shaking of an infant is needed for all caregivers. Prevention efforts of the Cabinet for Families and Children and Prevent Child Abuse Kentucky were highlighted.

The Division of Child Support reported that collections have increased by \$26 million in one year, with total collections at \$300 million. It was also reported that there has also been a 70-78 percent increase in paternity establishment. The Child Support Enforcement Commission reports that publicity from 00 SB 518 has helped apprehend ten of fourteen parents on the "most wanted" list. The Child Support Guidelines Commission indicated an interest in adjusting the guideline table in statute to reflect updated economic data and time-sharing by parents.

Early Childhood Development

The Executive Director of the Governor's Office of Early Childhood Development reported that the HANDS program is voluntary and provides intensive home visitation for first time parents until their children are two years of age. The program includes identification and screening, assessment, program enrollment, and home visitations by paraprofessionals and professionals. It is projected in FY '03 that all 120 counties and approximately 10,820 families will be involved with the HANDS program. In FY '02, the 6,642 families involved had a total of 74,570 home visits. The positive results of the HANDS program, include (1) a lower number of premature infants; (2) a lower number of low birth weight and very low birth weight infants; (3) a lower number of substantiated physical abuse cases; and (4) a lower number of substantiated neglect cases. It was noted that for every \$1 spent on a HANDS Medicaid service, the Federal Government contributes seventy cents.

The Commission on Children with Special Health Care Needs plans, develops, provides and evaluates the public statewide system of care for children with special health care and developmental needs. The First Steps Program has been merged with the Commission and continues to serve children from birth to three years of age who have a developmental disability. Since the merger, payment rates have changed, record reviews and monitoring have been intensified, and First Steps payment processing has been improved. It was reported that more than 10,000 families have been served through First Steps, and 12,000-15,000 are being served by the Commission.

Mental Health Services

A representative of the Department for Medicaid Services reported that a Medicaid-funded program, Impact Plus, provides services to emotionally disturbed children and has recently undergone changes relating to eligibility, services covered, and the time period for treatment. The program now focuses on children with the most severe conditions. Service providers indicated they are experiencing difficulties with the administration of the program.

As required by 02 HB 455, the Department for Medicaid Services has submitted a waiver request to the federal government to provide services to children with autism. The waiver is limited in both expenditures and number of children to be served. The Autism Spectrum Disorder Advisory Consortium, a group of parents and treatment providers, expressed disappointment in the waiver proposal and concern that it would not meet their needs.

Senior Prescription Drug Subcommittee

The Senior Prescription Drug Subcommittee was created to fulfill the requirements of SCR 185 of the 2002 Regular Session of the General Assembly. Testimony focused on three areas: other states' pharmacy assistance programs, federal government initiatives to provide seniors prescription drug coverage, and strategies to

increase seniors' awareness and access to discount programs offered by drug companies. A summary of the major issues discussed follows.

Drug Company Discounts

Representatives of major pharmaceutical companies testified about the programs available through their companies that help to increase the access of low-income individuals and senior citizens to prescription drugs. Several companies are helping to fill the gaps in senior drug coverage by offering discount and free drug programs. These include the Together Rx card, which provides seniors with savings of approximately twenty to forty percent on medications from several drug companies. The "Share Card" offered by Pfizer and the LillyAnswers Card offered by Eli Lilly provide any of their outpatient drugs to eligible seniors for a flat rate of \$15 for a thirty day supply and \$12 for a thirty day supply respectively. In addition, all drug companies offer selected free drugs to individuals who meet their income guidelines, and free drugs are donated to the Kentucky Physicians' Care Program.

The impact of the Patient Assistance Programs offered by the pharmaceutical industry was discussed. In 2000, 125,000 individuals in Kentucky received free drugs from drug companies. Over 13,000 prescriptions had been provided as of August 11, 2002 to Kentucky seniors using the "Share Card," with a market value of \$297,142. Approximately 6,308 Kentucky seniors were enrolled in the Together Rx program as of September 8, 2002, and 2,800 seniors were enrolled in the LillyAnswers Card as of August 2002. It is estimated that Kentucky seniors saved \$128,330 by using the Together Rx Card from January 1, 2002, to September 8, 2002.

The subcommittee also heard testimony from the Lt. Governor regarding the Kentucky Prescription Drug Assistance Program, a new initiative to help Kentuckians access prescription drugs. Under this program, local health departments would provide assistance in completing the application process for free drugs offered by drug companies.

Federal Initiatives

The subcommittee heard testimony from the Director of the Center for Medicaid and State Operations, Centers for Medicare and Medicaid Services (CMS). Testimony revealed that legislation to include a prescription drug benefit under Medicare is not likely to pass this year, but this topic will be debated again next year.

In the meantime, CMS is filling in the gaps by providing states with greater flexibility in designing programs under the "Pharmacy Plus" waiver program. This program is designed to provide pharmacy benefits to Medicare beneficiaries who have incomes under two hundred percent of the federal poverty guidelines. Four states have approved "Pharmacy Plus" programs, and several states having pending applications.

CMS is also planning to offer a Medicare-endorsed discount card for seniors. This card is expected to assist ten million seniors and disabled Medicare beneficiaries to obtain better prices on drugs, with a projected savings of \$1.2 to \$1.6 billion a year. The card would have a one time enrollment fee of no more than \$25.

Other State Pharmacy Assistance Programs

The subcommittee heard testimony from a health policy staff member of the National Conference of State Legislatures. Twenty-six states have a subsidized senior pharmacy assistance program. The programs have varying co-payments and a wide range of eligibility levels, with funding streams including tobacco settlement funds, general fund allocations, casino taxes, and cigarette tax hikes. Several states, including California and Florida, passed legislation requiring prescription drug discounts for Medicare enrollees that are equal to Medicaid prices. The subcommittee discussed the 340B Federal Drug Pricing Program, which allows federally qualified health centers, clinics, and hospitals to purchase drugs for patients at reduced rates. Kentucky has 260 entities that use the 340B program.

Awareness of Existing Discount Programs

Over the course of the meetings, it became clear that many seniors were unaware of existing discount programs available to seniors. Several organizations and agencies came forth to provide testimony on how they could help disseminate discount and free drug information to seniors. The Kentucky Medical Association pledged to assist in making these programs work. The KMA plans to publish information in its *Mediscope* and *Communicator*, newsletters to consumers and physicians respectively. The Executive Director of the Kentucky Pharmacists Association informed the committee that pharmacies were providing information to their customers. In addition, the Office of Aging Services plans to publish a brochure describing each of the discount cards and eligibility requirements.

The role of educating consumers about drug discount and free programs by other agencies was discussed. The Associate Dean for Extension at the University of Kentucky provided information on the role of the Cooperative Extension Service in providing health education and outreach. The Cooperative Extension Service is collaborating with the College of Pharmacy and the College of medicine to provide health education, control chronic disease, and promote compliance with appropriate drug therapies. They were encouraged to collaborate with the Department for Public Health and the area development districts in providing consumers with information on drug discount programs.

The Director of Field Services with the Department for Libraries and Archives indicated that libraries could be helpful in disseminating information about senior drug discount programs. However, it was noted that these program should be cost neutral.

The subcommittee also heard testimony from two private companies that assist individuals in obtaining savings on their medications. Independent Medication Consultant, Inc. offers consultation services that include a review of the patient's medications, analysis of options to decrease costs, and recommendations to the patient's physician, as well as assistance in completing applications for discount and free drug programs. The American Medical Pharmaceutical Outlet provides individuals with assistance in obtaining savings on medications through its Medication Assistance Program and Rx Relief Network.

Major Findings

While there were no formal recommendations from this subcommittee, there was general consensus that many Kentucky seniors are poorly informed about the discount and free drug programs that are offered to eligible seniors by drug companies. Although several agencies and associations came forth to offer their assistance in educating consumers and physicians, agencies need to collaborate and coordinate these services. In addition, there should be coordinated community services available to assist seniors in completing the application process for the various drug programs.

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON JUDICIARY**

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

Sen. Dick Adams
Rep. Kevin Bratcher
Rep. Perry Clark
Rep. Joseph Fischer
Rep. Bob Heleringer
Sen. Ray Jones
Sen. Marshall Long
Rep. Frank Rasche
Rep. John Will Stacy
Sen. Katie Stine
Sen. Elizabeth Tori
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Sen. David Williams

Rep. Paul Bather
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Sen. Gerald Neal
Rep. Arnold Simpson
Rep. Kathy Stein
Rep. Gary Tapp
Rep. John Vincent
Rep. Rob Wilkey
Rep. Brent Yonts

LRC STAFF: Norman Lawson, Scott Varland, Jonathan Grate, Peter Cassidy, and Lisa Fenner

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

INTERIM JOINT COMMITTEE ON JUDICIARY

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

COMMITTEE ACTIVITY

During the 2002 interim, the Interim Joint Committee on Judiciary held three meetings.

At the September 2002 meeting, the first topic on the agenda related to crimes against the elderly and 2002 RS HB 667, which the sponsor of the bill wishes to reintroduce in the 2003 Regular Session. Representatives from the Jefferson County Police and the Jefferson County Commonwealth's Attorneys office described the particular vulnerability of the elderly to various frauds, adult abuse, and institutional and domestic violence. Criminal organizations such as the "Irish Travelers" prey on the elderly through roofing, driveway paving, home repair, and other scams in which they force unwanted and unneeded repairs on the target of the operation and then either provide substandard work at high prices or provide no work at all. Similarly, the authorities indicated that failure of caregivers, both commercial and relatives, to give proper care to the elderly and to take proper care of the financial resources of the elderly is a continuing and growing problem. The bill, which is proposed, is designed to provide more alternatives to police and prosecutors through additional levels of offense, aggravating circumstances, and increased penalties. Various members of the committee observed that some of the penalties such as Class B felonies for many offenses were significantly higher than for similar offenses not committed against the elderly, and expressed concerns that the language of the proposal was so broad as to permit prosecution for innocent mistakes of caretakers and criminalize ordinary decisionmaking by caretakers if the end result might have harmed the elderly person. Frequently cited by committee members were situations in which investments do not pay what someone else thinks they should and situations where an unduly high standard of care has been placed on caregivers. Members urged the sponsor of the legislation to revisit some of the provisions of the bill, which they thought might be subject to misuse. Other speakers from the Cabinet for Health Services and from the Nursing Home Ombudsman Agency

of the Bluegrass spoke to the issues contained in the bill and to the problems which nursing home residents and their families had in taking care of elderly relatives.

The next matter concerned the Kentucky Court of Appeals Decision in the *Scott v. Scott* case and the Supreme Court of the United States decision in the *Troxel v. Granville* case relating to grandparents visitation rights and the application of Kentucky's KRS 405.021 relating to grandparent visitation. Under these recent cases, the court will presume that a fit parent can decide who should or should not visit or have custody of that parent's child. In order for a grandparent to override the rights of the parent under these decisions, the grandparent must prove that the parent is unfit and must also prove that the child will be harmed if the visitation is not allowed. Discussion centered on whether or not the present Kentucky statute meets the criteria of the court decisions. After a short discussion, the sponsors of the bill decided to remove a portion of the bill that was deemed unnecessary. No further action was taken on the bill by the committee.

The next matter was a report by the Division of Securities of the Department of Financial Institutions and the problems that the elderly and others are experiencing with regard to securities fraud. A typical recent case cited involved an insurance agent who sold worthless promissory notes. The director of the division indicated that the Department does not conduct the prosecutions themselves but must rely on local prosecutors to prosecute the cases. The director further indicated that New York and several other states had combined under an interstate agreement to which Kentucky is a party in successful prosecutions against corporate securities fraud. The committee was told that there is a problem getting federal prosecutors to enter cases worth less than one million dollars, even though the violations are against federal law and federal agencies have more expertise in prosecuting this type of case. The director observed that increased penalties, tiering of offenses so that larger fraud losses would bring higher penalties, and additional training for prosecutors in securities and business fraud cases would result in more convictions and better protection for investors. The next speaker on the same topic indicated that an unsuitable recommendation from a financial advisor is not necessarily fraud, but that under the present statute a willful violation is required and that in many cases federal Securities and Exchange Commission statutes have preempted the field with regard to mutual funds and nationally traded securities.

The first topic of the October meeting of the committee was a study of the Child Support Guidelines Commission directed by 2002 RS SR 213. The sponsor of the resolution and speakers for the Fathers on Rights for Custody Equality (FORCE) and Parents and Children for Equality (PACE) organizations described why the present Child Support Guidelines Commission should be replaced with a new commission with a new focus and a new mission. Speakers alleged that the present commission is not following the open meetings and open records laws, is not seeking input from child support payers and child support recipients, has not followed federal guidelines in setting child support guidelines for Kentucky, and is generally insulated from those whom they are to serve. The speakers wanted to change the focus of the child support guidelines from an income based set of guidelines to a needs based set of guidelines, which, aided by an economist on the commission, would take into account the needs of the child, the contribution made

by the noncustodial parent to the support of the child while the child is with the noncustodial parent, and a more equitable disposition of the tax burden of both parties. Improvements were also urged in the handling of child support cases with regard to cost of litigation, the use of the court system to harass other parties, the timeliness of decisions in child support cases, and the upgrading of child support guidelines in compliance with federal mandates and the standards of the American National Standards Institute. The speakers spoke of the situation where the present guidelines punish noncustodial parents for additional earnings without regard to the needs of the child, force child support payers into poverty, noncompliance, and prison, with the end result that the government must pay not only for the child but also for the nonsupporting parent who is in prison.

The next matters involved the approval of Executive Order 1067, which created a Division of Forensic Sciences and implemented other reorganization of the Kentucky State Police, and Executive Order 1068, which changed the membership of the Corrections Commission and refocused its mission with regard to funding alternatives to incarceration programs. Both executive orders were approved.

Another matter considered was involved a report by the Cabinet for Health Services and the Governor's Office of Technology for a pilot study of real time drug reporting under the KASPER prescription reporting system mandated by 2002 RS HB 26. The Governor's Office of Technology indicated that a grant request has been submitted to the Federal Bureau of Justice Assistance, that a decision had not yet been made, but that approval was expected shortly.

The next matter was a report on the Penal Code project underway at the Criminal Justice Council. Following a report on past and current penal code revision efforts, representatives of the council announced that an actual draft of a new penal code would not be submitted but that a study draft would be ready for consideration by the General Assembly early in 2003.

The next matter was a report on the Criminal Justice Council's Unified Criminal Justice Information System (UCJIS) which is designed to provide a record system integrating arrest, prosecution, court, corrections, probation and parole, and other criminal justice records into a uniform system, which all agencies can utilize. Several pilot projects are underway and the first product of the new system is the new digitized driver's license.

The next matter was a report by the Secretary of Justice on the racial profiling study undertaken by the criminal justice council in cooperation with local police departments. The study, which will be released in November, indicates that whites and African Americans are detained for approximately the same amount of time at traffic stops, while Hispanics are detained slightly longer, which is probably accounted for by language differences.

The next matter was a report by the Department of Corrections and the Jailers' Association on the relationship of the state and the local jails in providing additional beds

for state inmates in local jails. Two types of programs exist. The first is a controlled intake program by which state inmates are held in local jails until they can be transferred to a state facility, and the second, a Class C and Class D felon program in which non sex offender Class D felons and nonviolent Class C felons are housed in county jails to relieve overcrowding in state facilities, provide for a lower cost of incarceration, and help the counties to defray the costs of building local jail facilities with additional beds to house state and federal prisoners. The department indicated that programs are now underway to provide a real-time count of local prisoners and state inmates in local jails and to provide for a computerized billing system.

The next matter was a request from probation and parole officers in Jefferson County to clarify when they did and did not have the power of arrest. The officers indicated that under departmental interpretations of the current law, if they saw crimes committed by persons not on probation or parole, they could not arrest them. The officers proposed that the law be changed to give them full powers of peace officers to make an arrest in such cases. The Secretary of the Justice Cabinet indicated that he would study the matter and make a recommendation to the committee.

The next matter was a proposal by the Department of Criminal Justice Training to increase the amount of mandatory training for law enforcement telecommunicators and to require more persons to take the training. Some committee members expressed the reservation that this was an unfunded state mandate, which required the local government employing the telecommunicator not only to pay the person's salary but also to pay overtime for someone else to cover that person's job while in training for the sixty hours required.

At the November meeting of the committee, the first topic of discussion concerned legislation and other changes necessitated by the passage of Constitutional Amendment #1, relating to the creation of a family court system in Kentucky. The Chief Justice appeared and indicated that it was his intent to create various new family court positions utilizing existing district and circuit judges where possible, and that in many cases new judgeships would not be needed because the caseload of the new family court could be deducted from the caseload of the existing circuit and district judges. Specific legislative proposals would be sent to the committee prior to the session in January.

The second topic of discussion was a proposal from Senator Neal to provide compensation for persons who had been wrongly incarcerated by the Commonwealth and who were determined by a Circuit Court to be innocent. Compensation would be by the Board of Claims at a rate of \$25,000 for each year of incarceration. The Public Advocate and the President of the Commonwealth's Attorneys Association endorsed the proposal.

The third topic of discussion involved approval of an Executive Order of the Governor reorganizing the Forensic Science Division of the State Medical Examiner. The State Medical Examiner and the Deputy Secretary of the Justice Cabinet appeared to explain the proposal. The Executive Order was approved.

The fourth topic of discussion involved the repeal of KRS 640.075, which permits a youthful offender under the age of twenty-one to be transferred from the Department of Corrections back to the Department of Juvenile Justice. A crime victim whose son was murdered and the Commonwealth's Attorney from Christian County appeared with regard to a case where the defendant who murdered the lady's son was transferred back to a juvenile facility from prison after the law was passed. The prosecutor indicated that under the current system there was no need for a court to determine at age eighteen if a youthful offender should be retained in the juvenile system for another six months or transferred to an adult facility if the Departments of Corrections and Juvenile Justice could transfer them back to a juvenile facility without the intervention of a court, a prosecutor, or the victim of the crime.

The final topic of discussion was a joint appearance by the Public Advocate and a representative of the Commonwealth's Attorneys Association relating to a proposal to forgive the educational loans, on an incremental basis, of attorneys working as public advocates and prosecutors. Both parties testified that many young attorneys working for their organizations would not be able to pay off their student loans until after retirement and that the situation is hampering the quest to find competent new attorneys.

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON
LABOR AND INDUSTRY**

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

Sen. Dick Adams
Sen. Walter Blevins
Rep. Denver Butler
Sen. Ernie Harris
Rep. Dennis Horlander
Rep. Joni Jenkins
Rep. Tom Kerr
Sen. Vernie McGaha
Rep. Rick Nelson
Sen. Joey Pendleton
Rep. Jim Stewart
Rep. Brent Yonts

Rep. John Arnold
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Sen. Bob Jackson
Sen. Alice Kerr
Rep. Stan Lee
Rep. Russ Mobley
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Sen. Dick Roeding
Rep. Johnnie Turner

LRC Staff: Linda Bussell, Adanna Hydes, Melvin LeCompte, Betty Davis, and Reni Krey

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 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.

COMMITTEE ACTIVITY

The committee held one meeting during the 2002 Interim. The committee met in October to receive status reports and updates on several issues, including the Governor's Employee Advisory Council; House Bill 348, which revised black lung benefits; and the workers' compensation rate filing approved in September.

Executive Order 01-623, issued in July 2001, authorized nine categories of classified, nonsupervisory state employees, excluding teachers, employees in higher education, and employees of elected constitutional officers, to elect to be represented on the Governor's Employee Advisory Council. The order authorized the elected representatives on the Council to discuss employment related issues and to make recommendations to the Governor. Officials from the Labor Cabinet and the Governor's Office presented an overview of activities of the Council, informed the committee that six categories of employees have elected representation on the Council, and responded to questions from the committee. The committee asked several questions relating to the issue of dues and whether employees could be required to pay dues to a labor organization elected to represent them on the Council. The officials stated that the Executive Order stated specifically that an employee's participation was voluntary, coercion either to join or not join a labor organization was prohibited, and that employees are not required to pay dues to a labor organization. The officials further informed the committee that an alternative dispute resolution system to resolve personnel issues had been created based on a recommendation from the Council.

Officials from the Department of Workers' Claims in the Labor Cabinet provided a status report on implementation of House Bill 348, enacted in the 2002 Regular Session, that revised black lung benefits for coal miners in the Commonwealth. The officials informed the committee that the black lung revisions, which became effective July 15, expanded access to benefits by coal miners and provided generous retraining and education opportunities and benefits to coal miners who have early evidence of black lung disease, coal workers' pneumoconiosis. The officials stated that administrative regulations required by the new black lung revisions have been promulgated, and contracts are in place with certified "B" readers to interpret chest x-rays to determine existence or nonexistence of black lung, and with rehabilitation agencies to evaluate coal miners for purposes of retraining and education.

An actuary with the Department of Insurance provided an overview of the workers' compensation rate filing approved by the department in September. The actuary stated that the workers' compensation rate filing was based only on loss costs and contained advisory rates that workers' compensation insurance carriers may choose to adopt or reject. He said the rate filing recommended no change in loss cost rates for employers in the coal industry, but recommended an average increase of 9.3% in such rates for employers in other industry groups such as manufacturing and construction. The actuary said increased rates were attributable to continued hardening of the workers' compensation insurance marketplace resulting in fewer carriers writing workers' compensation coverage, continuing increases in medical costs, and anticipated increases in indemnity or income benefits.

The committee received written reports on new child labor administrative regulations that became effective in June and reduced from forty to thirty the number of hours students between sixteen and eighteen years of age can work during a week while school is in session; the financial status of the Kentucky Employers' Mutual Insurance Authority (KEMI) that was created in 1994 to provide workers' compensation insurance coverage to employers in the Commonwealth; and the status of the unemployment insurance program relating to the number of claims filed and amount of benefits paid for unemployment insurance during the first six months of 2002.

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON
LICENSING AND OCCUPATIONS**

**Sen. Brett Guthrie, Co-Chair
Rep. Denver Butler, Co-Chair**

Rep. Carolyn Belcher
Sen. David Boswell
Rep. Tom Burch
Rep. Ron Crimm
Rep. Dennis Horlander
Rep. Joni Jenkins
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Rep. Charles Miller
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Rep. Jon David Reinhardt
Sen. Tim Shaughnessy
Sen. Jack Westwood

Sen. Charlie Borders
Sen. Tom Buford
Rep. Larry Clark
Rep. Jon Draud
Sen. Bob Jackson
Sen. Marshall Long
Rep. Reginald Meeks
Sen. Daniel Mongiardo
Rep. Ruth Ann Palumbo
Sen. Richard Roeding
Rep. Jim Stewart

LRC STAFF: Vida Murray, Jack Jones, Ann Seppenfield, Cyndi Galvin, and Susan
Cunningham

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

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

COMMITTEE ACTIVITY

During the 2002 Interim, the Interim Joint Committee on Licensing and Occupations held three meetings.

In performing its statutory legislative oversight responsibilities, the Committee reviewed one administrative regulation under the review process established in KRS 13A. The regulation was approved.

At the Committee's first meeting, its members heard testimony from a representative of the Idaho Small Business Development Center and the Kentucky Secretary of State on interactive programs in each state that identify regulations and licensing requirements affecting a particular business. The programs' users identify the business they want to start by answering a series of questions or checking off boxes and are supplied with a list of regulations and licensing requirements affecting the business. The licensing and regulatory information crosses agency lines and provides a single source from which a starting or expanding business can obtain necessary licensing information. Both programs evolved out of the small business owners' frustrations with governmental red tape. The programs differ in that Idaho's program supplies local, state, and federal licensing and regulatory information and links to the particular forms and programs, while Kentucky's program provides state information and contact persons at the affected agencies. The startup cost for each program was relatively small, and the programs can be maintained at minimal expense.

The final item on the first meeting's agenda was a presentation by the Commissioner of the Department of Alcoholic Beverage Control on recent local option elections and proposed legislative changes. The Commissioner began by noting that during the 2000 Legislative Secession, laws were enacted allowing three new types of local option elections: a citywide election for the sale of alcoholic beverages by the drink at restaurants obtaining seventy percent of their receipts from the sale of food and seating at least one hundred people; a precinct-level golf course election, and a precinct-level election allowing wineries to sell their own products. Under the above-mentioned local option elections, forty limited restaurant licenses have been issued with forty pending,

seven golf course licenses have been issued and six winery licenses have been issued. Other activities and programs focus on better training those involved in serving alcoholic beverages and enforcing the laws relating to its sale. The Commissioner also reported on the success of its programs where agents pose as clerks or use underage investigative aides to detect sales of alcoholic beverages and tobacco to minors. The Commissioner concluded by setting out plans the Department wants to achieve in the future: reducing the number of licenses issued; processing applications and license renewals online; and promulgating administrative regulations for statutes enacted in 1998.

At the committee's second meeting, the executive director of the Kentucky Higher Education Assistance Authority briefed the Committee on how the Authority is implementing HB 296. That bill which was enacted in the 2002 Regular Session prohibits occupational and professional licensing boards from issuing a license to or renewing the license of a person who is in default of payment on his or her student loan. Moreover, the license of anyone holding a valid license may be suspended or revoked if the person is in default. The representative reported that the Authority had sent initial letters to the licensing agencies and boards and had followed up by sending a Memorandum of Understanding to the agencies. The licensing boards or agencies may enter into a memorandum with the Authority or provide a means on the application for licensing by which the applicants and licensees may self-certify. The director reported that some agencies or boards had not responded to the initial letter and that some of the agencies or boards had concerns to be resolved prior to entering into the memorandums. Concerns noted focused on the agencies' or boards' inability to access information from a computer without additional funding and staff and on who would incur the cost of the hearing if a license was suspended or revoked.

The second item on the meeting's agenda was a discussion of legislation proposed in the 2002 Legislative Session earmarking an additional one-tenth of one percent of the gross receipts from the conduct of charitable gaming by veteran groups or organizations to the Kentucky Veterans' Program Trust Fund. The Deputy Commissioner of the Department of Veterans Affairs discussed the sources of the moneys and its uses.

At the Committee's third meeting, a representative of the state's thoroughbred horse owners and breeders discussed the impact of the horse industry on Kentucky's economy and the challenges facing Kentucky horse owners and breeders. He reported that the horse industry, excluding its impact on tourism, has a \$3.4 billion impact on the state's economy, supporting 16,600 full time employees and 36,000 indirect jobs. In addition, the breeding industry accounts for two-thirds of the economic impact. The representative further reported that Kentucky's thoroughbred industry is recognized world-wide for its excellence and strong history, but faces challenges to its preeminence because of the competitive disadvantages the industry faces. Those challenges include the imposition of sales taxes on stallion seasons, horse feed, bedding, machinery, and fencing and the higher purses available in other states that are supplemented by General Fund dollars or dollars from slot machines at race tracks. The presenter noted that despite the widespread public perception that horse farming is engaged in only by the wealthy, the median horse farm consists of 200 acres, has a high debt, and produces a gross income of

\$400,000 and a net income of \$50,000. Moreover, the presenter indicated that thoroughbred operations are in counties other than those located in central Kentucky. The presenter concluded his presentation by providing an update on the Mare Reproductive Loss Syndrome (MRLS). He indicated that while the early fetal loss was about one-half of what was estimated last year, the real economic impact will not occur until 2003 when the 2002 foal crop would have gone to the market. He also opined that the majority of the 300 fewer mares bred in the state this year was attributed to other states' using the presence of the MRLS in Kentucky in marketing the advantages of breeding in their states.

The second item on the agenda of the third meeting was a presentation on the University of Louisville Equine Industry Program. In highlighting the program, the presenter indicated that the University's equine program is one of fifteen programs in the country with a business rather than an animal science focus. The presenter reported that the program's funding has remained constant over the years, but the program faces difficulties attracting students (most students are interested in the equine rather than the business side of the industry) and people qualified to teach. The presenter indicated that the school has a heavy research component and its faculty has prepared papers and magazine articles on various issues affecting the racing industry, such as the lottery, casinos and riverboats, mare reproductive loss syndrome, breeders' awards, and purses. Other accomplishments noted were the establishment of a steward accreditation program, outreach programs with other countries, and satellite programs providing access to students at other state universities.

The third item on the agenda was a follow-up from the Kentucky Higher Education Assistance Authority on how licensing and occupational boards are complying with newly enacted provisions that prohibit the issuance or renewal of licenses if the applicant is in default of his or her student loan payment. The Authority's executive director reported that the Authority had made several changes since its presentation at the committee's last meeting. Specifically, the Authority has revised its memorandum of agreement to provide that a board may meet the requirements of the law by having its applicants self-certify, agreed to assume the responsibility of matching the names of the agencies' or boards' applicants or licensees in default with a list of applicants or licensees supplied by the boards or agencies; included information in the Authority's forms notifying potential borrowers of the consequences of losing their professional or business licenses if in default of payment; and agreed to certify the borrowers' eligibility for licensing prior to their making application to the licensing boards or agencies. The executive director reported that some boards or agencies have signed or have indicated they are willing to sign the memorandum of agreement, and others are still expressing concern about the memorandum's content.

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON
LOCAL GOVERNMENT**

**Sen. Albert Robinson, Co-Chair
Rep. Steve Riggs, Co-Chair**

Rep. John Adams	Rep. Adrian Arnold
Sen. Walter Blevins	Sen. Charlie Borders
Sen. David Boswell	Rep. Scott Brinkman
Rep. Jim Callahan	Rep. Ron Crimm
Rep. Mike Denham	Rep. Jon Draud
Rep. J. R. Gray	Sen. Ernest Harris
Rep. Charlie Hoffman	Sen. Alice Kerr
Rep. Stan Lee	Sen. Ed Miller
Rep. Reginald Meeks	Rep. Marie Rader
Sen. Ernesto Scorsone	Rep. William Scott
Rep. Arnold Simpson	Rep. Brandon Smith
Rep. Roger Thomas	Sen. Elizabeth Tori
Sen. Johnny Ray Turner	Rep. Jim Wayne
Sen. David Williams	

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

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
GENERAL ASSEMBLY**

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

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

COMMITTEE ACTIVITY

The Interim Joint Committee on Local Government has met three times during the 2002 interim period. The committee met with state and local law enforcement officials to discuss the problems with the recruitment and retention of law enforcement officers. In addition, they reviewed and discussed the issue of mandating the participation of active local government employees in the state health insurance program in order to assure their eligibility in the system as retired members. The committee also met with various local government interest groups to determine their concerns and legislative needs for the upcoming legislative session.

At its first meeting, in August, the committee met in conjunction with the Governor's Local Issue Conference which was being held for the first time in many years in Frankfort. For this meeting, the committee had invited representatives of the Kentucky Association of Chiefs of Police, the Kentucky Sheriff's Association, the Kentucky State Police, the Kentucky Association of University Law Enforcement Administrators, and individual community police chiefs to discuss problems with the recruitment and retention of law enforcement officers. One issue discussed was the possibility of local governments recovering some of the lost revenues incurred when they invest in the training and equipping of a police officer who leaves a department before the original investment is recouped. The speakers also discussed at length the varying reasons which were causing law enforcement officers to seek transfers or leave law enforcement all together. The committee heard that the reason an officer changes his or her place of

employment is not always based on increased salary opportunities. The committee was also told that today's incoming officers are more career-minded and because of size, departments can neither challenge their officers nor offer sufficient career advancement opportunities. Some officers leave communities where they are not classified in "hazardous duty" positions for retirement purposes while others leave for better insurance benefits from their employers. Speakers also indicated that it is getting more difficult to recruit young people for law enforcement at all, due to the dangerous nature of the job and the low starting salaries. It is especially difficult to recruit in the smaller communities.

From their discussion, the committee was also informed that the problem of the transferring of trained and certified officers was not isolated to the smaller communities. It seems that the larger communities are losing their officers to even larger metro areas as well as to state and federal law enforcement agencies. A representative of the Kentucky State Police said they too were losing many of their younger officers to several of the federal agencies which offered more attractive pay and benefit packages. The university police ranks were also said to be experiencing significant turnover. At the two largest employers of university police (UK and U of L), this constant turnover can be attributed in part to the fact that neither university participates in CERS and neither university classifies its police officers in the highly desirable "hazardous duty" categories.

In summary, the committee was told that the reasons why an officer transfers is varied based on the individual needs of that officer. It was suggested to the committee that there are some possible actions which might be considered at the state and local levels which would prevent some of these transfers and possibly increase the interest of potential recruits to the law enforcement ranks. Possible actions included state-wide minimum starting salaries for officers, supplemented if necessary from state funds; mandatory participation in CERS for all law enforcement agencies combined with the mandatory classification of all certified law enforcement officers in "hazardous duty" positions; the creation of longevity pay schedules whereby officers would qualify for bonuses the longer they remained on the job; and the restructuring or elimination of the fee system for sheriff's offices in order to find a more adequate and sufficient method for the funding of the office and its deputies.

In September, the committee held its second meeting in Frankfort. The Kentucky Association of Counties (KACo) appeared before the group to discuss their proposed legislative platform for the upcoming 2003 legislative session. The Executive Director of KACo outlined those issues of most interest to their group. They were animal control; revenue generating flexibility; assistance with the increasing cost of county jails; the possibility of including local governments in any discussions relating to the extension of gaming in the state; the provision of affordable health care insurance to active and retired local government employees; and insurance fairness when considering the participation of local governments in the state's health insurance programs.

In the area of animal control, KACo indicated that they would support a one percent tax on the wholesale cost of pet food in order to assist counties with the

maintenance of their animal control facilities and the administration of their local programs. The committee then discussed the type of animals which needed to be regulated. They also discussed the need to define a “humane treatment” of animals in regards to the methods which should be used to euthanize animals when necessary.

Regarding local revenues, the KACo representatives stressed the importance and need for local governments to be able to be innovative in the ways they raise local revenues. KACo would like for the General Assembly to enact a thorough proposal for tax reform for local governments.

The KACo officials also briefly talked about the need to curb the ever-increasing costs of county jails. While they offered no specific proposals at this time, they did say that this cost was the singular biggest cost to counties and it is creating major financial problems for many of the counties.

KACo then noted that their biggest issue of concern at this time was the provision of affordable health care coverage to their active and retired employees without being mandated to participate in the state’s health insurance programs. They noted that their current level of concern resulted from a recent recommendation, from the state’s Health Policy Board of the Personnel Cabinet, that local governments be required to place both their current and retired members in the state’s health insurance programs. Representatives of the Personnel Cabinet said that this had been considered necessary in order to offset the inequities which had been created in the state system by including only local government retirees, which was a more costly group. Representatives of the Kentucky League of Cities and the Kentucky Retirement System also participated in this discussion.

For its third meeting in October, the committee met in Covington, Kentucky, in conjunction with the annual meeting of the Kentucky League of Cities (KLC). At this meeting, representatives of the Department for Local Government (DLG), the Kentucky League of Cities (KLC), and the Kentucky Council of Area Development Districts (KCADD) came before the committee to discuss their legislative needs for the 2002 General Assembly.

KCADD told the committee that they were very appreciative of past support from the General Assembly and the Executive branch for funding for the Joint Funding Administration and Area Development Fund programs. But they were concerned over recent reductions of funding in both of these programs. They said that they were concerned that the loss of these funds would mean a reduction in the staff support and technical assistance to local governments. They encouraged the committee to support increases in the funding of both programs.

The Department for Local Government presented the committee their legislative recommendations for the upcoming 2003 session. Their recommendations included the need to include special districts in the statutes regulating the use of interlocal agreements; a request for newly incorporating cities to send reporting information to DLG similar to

information sent to the Secretary of State's office; the need to amend the statutes relating to the drafting of local ordinances; the need to permit DLG to hold county budget workshops in election years; the need to change the statutory date established for the submission of certified tax rates to the counties by DLG; and the need to repeal statutes establishing the county debt commission, which is obsolete and duplicative of other processes.

The Kentucky League of Cities discussed their issues of concern in the next legislative session. These included opposition of any unfunded mandates to local governments; the need for cities to be able to grow through the use of annexation; the need for all local governments to have the flexibility to generate the revenues necessary to run their operations; the importance of fairness to local governments as the state develops programs for the provision of health care insurance for active and retired governmental workers; the need to amend the appointment process relating to the membership of study commissions in those counties which may be considering the formation of a charter county government; and the need to assist small communities in order to assure their survival.

Also at this meeting, the committee heard from representatives of the City of Sparta, which requested the General Assembly provide assistance in dealing with the problems which had been created for them by the construction of the Kentucky Motor Speedway in their community.

The final group to come before the committee included representatives from the Cities of Newport and Covington and the developer of the major economic development projects which had been undertaken in those communities. The members of this group told the committee how important it was for local governments and developers to work together for the betterment of their communities. The developer also told of the major importance of the state's new tourism sales tax credit program and its effect on the decision of many developers to site and begin a project in an area. As a conclusion to their meeting, the committee then toured economic development projects in the Newport area.

With the conclusion of the October meeting, the committee completed their interim activities.

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON SENIORS, VETERANS,
MILITARY AFFAIRS, AND PUBLIC PROTECTION**

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

Rep. Sheldon Baugh	Rep. Carolyn Belcher
Rep. Larry Belcher	Rep. Kevin Bratcher
Sen. Tom Buford	Rep. Tom Burch
Rep. Bob DeWeese	Rep. Danny Ford
Rep. "Gippy" Graham	Rep. Jodie Haydon
Sen. Paul Herron, Jr.	Rep. Jeffrey Hoover
Sen. David Karem	Sen. Edwin Miller
Sen. Gerald Neal	Rep. Rick Nelson
Rep. Fred Nesler	Sen. Joey Pendleton
Rep. Steve Riggs	Rep. Tom Riner
Sen. Albert Robinson	Sen. Richard Roeding
Sen. Tim Shaughnessy	Rep. Charles Siler
Rep. Dottie Sims	Sen. Katie Stine
Rep. Jim Thompson	Sen. Elizabeth Tori
Rep. Susan Westrom	Sen. Jack Westwood

LRC Staff: Scott Varland, Clint Newman, Mike Bennett, and Wanda Gay-Hollon.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON SENIORS AND VETERANS

Sen. Elizabeth Tori, Chair

Rep. Carolyn Belcher
Rep. Bob DeWeese
Sen. Paul Herron
Sen. Ed Miller
Rep. Rick Nelson
Sen. Dick Roeding
Rep. Susan Westrom

Rep. Tom Burch
Rep. "Gippy" Graham
Rep. Jeff Hoover
Sen. Gerald Neal
Rep. Fred Nesler
Rep. Charles Siler

SUBCOMMITTEE ON MILITARY AFFAIRS AND PUBLIC PROTECTION

Rep. Jim Thompson, Co-Chair Sen. Albert Robinson, Co-Chair

Rep. Sheldon Baugh
Rep. Kevin Bratcher
Rep. Danny Ford
Sen. David Karem
Rep. Steven Riggs
Rep. Dottie Sims
Sen. Jack Westwood

Rep. Larry Belcher
Sen. Tom Buford
Rep. Jodie Haydon
Sen. Joey Pendleton
Rep. Tom Riner
Sen. Katie Stine

INTERIM JOINT COMMITTEE ON SENIORS, VETERANS, MILITARY AFFAIRS, AND PUBLIC PROTECTION

JURISDICTION: Matters pertaining to senior citizens; eliminating age discrimination; non-public sector retirement; problems of aging; violent acts against the elderly; military affairs and civil defense; national guard; veterans; retention of military bases; veterans' rights, benefits and education; veterans' nursing homes; military memorials and cemeteries; safety of citizens and security of public buildings and property; fire prevention and protection; foods, drugs and poisons; pure foods and drugs; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; garbage and refuse disposal.

COMMITTEE ACTIVITY

During the 2002 Interim, the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection held one committee meeting prior to November 1, 2002. The committee is scheduled to meet again during November, in Owensboro in conjunction with two Homeland Security Conferences, and December, at Fort Knox. The committee was organized into two subcommittees: the Subcommittee on Seniors and Veterans and the Subcommittee on Military Affairs and Public Protection. Each subcommittee met once prior to November 1, 2002. A summary of committee and subcommittee activity follows.

At its meeting in August 2002, the committee heard testimony on Kentucky's Homeland Security. The Adjutant General testified that a formal report on the state government role in Homeland Security would be delivered to the committee in December, and the report would be much more detailed than the testimony received at the meeting. He introduced the speakers. The Executive Director of the Office for Security Coordination informed the committee of his role in assisting the Adjutant General, who heads our Homeland Security efforts. The Counter-Terrorism Coordinator for the Kentucky State Police said that the Kentucky State Police is concerned with three aspects of terrorism: prevention, crisis response, and consequence management. The Commissioner, Department of Public Health, addressed bio-terrorism. He said that his main concern is that Kentucky already has a very unhealthy population which would be more susceptible to bio-terrorism than a healthier population. The Bio-Terrorism Coordinator of the Department of Public Health described the two federal grants which Kentucky has received to fight bio-terrorism. The Executive Director of Kentucky Educational Television (KET) said that KET has developed the capability to transmit emergency information data to television sets, personal computers, and network servers.

Subcommittee on Military Affairs and Public Protection

The subcommittee met in October 2002 to receive testimony from individuals who did not have the opportunity to speak at the August 2002, full committee meeting due to time limitations. The Adjutant General introduced the speakers. The Chief of Staff,

Department of Agriculture, and the Agri-Terrorism Coordinator, Department of Agriculture, spoke on the Department's efforts to combat agri-terrorism and obtain federal Department of Agriculture grants. In addition, the Chief of Staff discussed the hiring of a Homeland Security Coordinator, and the Agri-Terrorism Coordinator discussed Mare Reproductive Loss Syndrome and West Nile Virus.

The Director of the Division of Emergency Management described the Division's anti-terrorism efforts as well as its grant from the federal Department of Justice. The Division has trained nearly four thousand Kentuckians in anti-terrorist techniques and has participated in the development of state and local emergency operations plans. The Division has used the \$7.7 million grant to create fourteen teams in Kentucky charged with responding to the use of a weapon of mass destruction.

The Deputy Chief Information Officer, Governor's Office of Technology, updated the committee on cyber security efforts. Improved cyber security is necessary to ward off the increased number of cyber attacks on computer systems. These attacks have doubled in the last four years.

The Deputy Commissioner of the Kentucky Fire Commission said that the Commission provides training to first responders and others in the areas of hazardous materials and weapons of mass destruction. The Commission has aided the Division of Emergency Management and the Office for Security Coordination in their efforts to combat terrorism.

The Terrorism and Emergency Response Coordinator with the Transportation Cabinet spoke next. He reported that the Cabinet has provided anti-terrorist training to field engineers, bridge inspectors, county superintendents, traffic personnel, and maintenance employees. Furthermore, the Cabinet is developing a statewide Transportation Cabinet Emergency Response Plan for implementation during a disaster or terrorist attack. The Director of the Driver's Licensing Division said that through the efforts of the General Assembly and the Executive Branch, the Kentucky driver's license is considered one of the best in the United States. A Lieutenant in the Division of Vehicle Enforcement said that the Division escorts trucks carrying hazardous materials through the Commonwealth and participates in the Highway Watch Program, which trains truck drivers to identify suspicious vehicles and activities and to report them to law enforcement.

Subcommittee on Seniors and Veterans

The Commissioner of the Department of Veterans' Affairs briefed the subcommittee on the Department's activities. With a budget of \$32.9 million, the Department serves 367,000 veterans and their 606,000 family members. The General Assembly has authorized three veterans nursing homes, which have all opened, and four veterans' cemeteries. The Commissioner discussed several veterans' programs administered by his Department such as facilitating the awarding of benefits, burial honors, and outreach to homeless veterans. He then outlined three pieces of legislation

that his Department will be supporting in the 2003 Session of the Kentucky General Assembly. The Legislative Chair of the Joint Executive Council of Veterans' Organizations (JECVO) said that JECVO would also be supporting the three pieces of legislation. The subcommittee concluded its meeting with a discussion of how to improve Veterans' Administration Hospitals.

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON
STATE GOVERNMENT**

**Sen. Albert Robinson, Co-Chair
Rep. Charles Geveden, Co-Chair**

Rep. John Adams	Rep. Woody Allen
Rep. Adrian Arnold	Rep. Eddie Ballard
Rep. Joe Barrows	Rep. Carolyn Belcher
Sen. Walter Blevins	Sen. Charlie Borders
Sen. David Boswell	Rep. John Bowling
Rep. Jim Bruce	Rep. Buddy Buckingham
Rep. Dwight Butler	Rep. Jim Callahan
Rep. Larry Clark	Rep. Perry Clark
Rep. James Comer	Rep. Tim Feeley
Rep. Joe Fischer	Sen. Ernie Harris
Rep. Charlie Hoffman	Sen. Alice Kerr
Rep. Jimmie Lee	Rep. Gross Lindsay
Rep. Paul Marcotte	Rep. Mary Lou Marzian
Sen. Ed Miller	Rep. Lonnie Napier
Rep. Tanya Pullin	Rep. Jon David Reinhardt
Sen. Ernesto Scorsone	Rep. Arnold Simpson
Rep. John Will Stacy	Sen. Elizabeth Tori
Sen. Johnny Ray Turner	Rep. Tommy Turner
Rep. Jim Wayne	Sen. David Williams

LRC STAFF: Joyce Honaker, Joyce Crofts, Karen Armstrong-Cummings, Laura Hendrix, Jim Roberts, Mark Roberts, Tom Troth, Stewart Willis, Peggy Sciantarelli, and Terisa Roland

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

**TASK FORCE ON ELECTIONS, CONSTITUTIONAL AMENDMENTS,
& INTERGOVERNMENTAL AFFAIRS**

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

Rep. Woody Allen	Rep. Joe Barrows
Rep. Jim Bruce	Rep. Perry Clark
Rep. James Comer	Rep. Joe Fischer
Sen. Ernie Harris	Rep. Charlie Hoffman
Rep. Gross Lindsay	Rep. Mary Lou Marzian
Sen. Ed Miller	Sen. Elizabeth Tori

Sen. Albert Robinson, Ex-Officio
Rep. Charles Geveden, Ex-Officio

Joint Subcommittee on State Health Insurance Program

**A Joint Subcommittee of the
Interim Joint Committee on Banking and Insurance
and the
Interim Joint Committee on State Government**

Sen. Alice Kerr, Co-Chair
Rep. Bob Damron, Co-Chair

Rep. Carolyn Belcher	Sen. Lindy Casebier
Rep. Brian Crall	Sen. Ernie Harris
Rep. Jimmie Lee	Sen. Marshall Long
Rep. Paul Marcotte	Sen. Richie Sanders
Sen. Johnny Ray Turner	Rep. Susan Westrom

Sen. Tom Buford, Ex-Officio
Sen. Albert Robinson, Ex-Officio
Rep. Jim Bruce, Ex-Officio
Rep. Charles Geveden, Ex-Officio

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

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

COMMITTEE ACTIVITY

The Interim Joint Committee on State Government held three meetings during the 2002 Interim. The committee focused on the Commonwealth's group health insurance program and funding issues related to the state-administered retirement systems.

In August, the Personnel Cabinet Secretary and staff briefed the committee on the Commonwealth's group health insurance program. The Secretary noted that Aetna declined to bid for coverage for the 2003 plan year. Anthem reduced the number of counties in which it provided coverage from sixty-six to eleven, but agreed to provide coverage in five counties for which no bids were received. Members of the committee expressed concern that a majority of counties would experience a decrease in the number of carriers and coverage options available in 2003 and a number of counties would not be served by the same carriers in 2003 as those currently providing coverage.

At the August meeting, representatives of the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System presented information on the status of funding for the insurance benefits provided to retirees. The Executive Secretary of the Kentucky Teachers' Retirement System noted that the insurance program for retired teachers was funded on a "pay-as-you-go" basis by both employer and employee contributions. He explained that the board of trustees had adopted new vesting requirements for teachers hired July 1, 2002, or later which will increase to twenty-seven the number of years of service required to obtain full insurance coverage at retirement. The Executive Director of the Kentucky Retirement Systems noted that insurance benefits for retirees of those systems were pre-funded and that while significant progress

had been made in improving the funded position, the unfunded liability continued to be a concern.

The committee voted to request the Legislative Research Commission to establish a joint subcommittee made up of members of the Interim Joint Committee on Banking and Insurance and the Interim Joint Committee on State Government to look at the state group insurance program and the possibility of self-funding.

At the September meeting, the committee heard comments from the insurance carriers offering coverage to the state health insurance group. Representatives from five carriers explained that the bidding requirements force carriers to set one premium for all counties in which they intend to offer coverage. If a carrier tries to extend coverage, regional differences in the cost of providing coverage force a carrier to bid a higher premium for the low-cost counties, making the premium uncompetitive in the lower-cost counties.

Representatives from the state-administered retirement systems addressed the impact of the financial market downturn at the October meeting. The retirement systems explained that losses from Enron and WorldCom were minimized because the funds' investment policies limited holdings in these securities.

At the October meeting, the committee also received the report of the actuary on the House Bill 846 study. House Bill 846 directed LRC to have the Interim Joint Committee on State Government, with assistance from the LRC Chief Economist, to determine the cost to the state health insurance group resulting from the inclusion of retirees from employers who insure their employees outside the group. An actuarial firm, The Segal Company, which had no contractual relations with affected parties, was employed to assist. The Segal Company reported that "unescorted" retirees in the group cost \$14.1 million in calendar year 2001. Unescorted retirees are those retirees from public employers who do not elect to provide insurance coverage to employees through the state group. The report indicated that the subsidy amounted to \$5.17 for each employee, retiree, and dependent of employers who participate in the state group. The report included a number of recommended approaches for dealing with the subsidy, but noted that the recommendations were not reviewed to determine if they complied with applicable Kentucky laws.

The Kentucky League of Cities and Kentucky Association of Counties expressed concern to the committee that assessing a fee for retirees would place a financial burden on the members of those organizations. They presented information prepared by the Kentucky Retirement Systems which indicated that local government employers other than school boards paid a disproportionate share of the medical insurance liabilities in the County Employees Retirement System due to the lower average salaries of classified school employees.

The committee referred consideration of the recommendations from the Segal report to the Joint Subcommittee on the State Health Insurance Program for further consideration prior to the 2003 General Assembly.

SUBCOMMITTEE ACTIVITY

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

During the 2002 Interim, the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs held three meetings.

At its first meeting, in September 2002, the Task Force heard presentations on the two proposed constitutional amendments that were on the ballot in November 2002. These amendments dealt with the establishment of Family Courts in Kentucky and restructuring of the constitutional provisions relating to corporations.

At its second meeting, in October 2002, the Task Force heard additional information about the proposed constitutional amendment relating to corporations. The Task Force also heard presentations by the Registry of Election Finance on gubernatorial public financing and electronic filing and disclosure of campaign finance information. The Task Force heard a presentation on the federal Bipartisan Campaign Finance Reform Act of 2002 and its implications for state campaign finance systems.

At its third meeting, in November 2002, the Task Force heard a presentation from the Secretary of State's Office and the Kentucky State Board of Elections on issues relating to the 2002 elections and the federal "Help America Vote Act of 2002." Additionally, staff from the LRC Program Review and Investigations Committee presented the results of their study on public funding for gubernatorial campaigns in Kentucky and other states.

Joint Subcommittee on the State Health Insurance Program

The Joint Subcommittee on State Health Insurance Program held four meetings during the 2002 Interim. During the first meeting, held September 25, 2002, the Subcommittee set the agenda and schedule for review of the state health insurance program.

At the October meeting, the Executive Director of the Office of Public Employee Health Insurance presented the recommendations of the Kentucky Group Health Insurance Board. The board's major recommendations were as follows: (1) The state should subsidize dependent coverage while maintaining the current contribution toward single coverage to make health insurance more affordable for the state's employees; (2) employers whose retirees are in the state group but who choose to cover their employees outside the group should be required to pay the cost of those retirees or else join the state

group; (3) the state should only self-insure if it is likely that savings will offset potential risks; and (4) the vesting requirement for post-retirement health insurance benefits should be changed for new employees.

The Subcommittee met November 25, 2002, to seek input on health insurance issues from organizations representing state employees and to learn what impact self-insuring the state plan might have on the private insurance market in Kentucky. The Commissioner of the Department of Insurance explained that the number of insurers writing individual health policies had declined in recent years. The Commissioner noted that for two central Kentucky insurers, employees in the state group made up thirty-five to fifty percent of their covered members. If the state self-insured, these carriers would be significantly impacted.

The Subcommittee heard from the Kentucky Association of State Employees; the American Federation of State, County and Municipal Employees; the Fraternal Order of Police; the Kentucky Education Association; the Kentucky Education Support Professional Organization; and the United Auto Workers. Employees testified that the high cost of dependent coverage forced lower-paid workers to take second jobs. The groups urged the Subcommittee to consider regional rating of insurance premiums, financial assistance for dependent insurance coverage, and development of a self-insured plan that would be available statewide. The Subcommittee directed staff to send a questionnaire to employee groups to obtain the groups' positions on possible changes to the health insurance program.

The Subcommittee will hold its final meeting December 16, 2002, to hear further information on the pros and cons of self-insuring.

**REPORT OF THE 2002
INTERIM JOINT COMMITTEE ON
TRANSPORTATION**

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

Sen. Dick Adams
Rep. Eddie Ballard
Sen. Charlie Borders
Rep. Ira Branham
Rep. Barbara Colter
Rep. Mike Denham
Rep. Jodie Haydon
Sen. David Karem
Rep. Jimmie Lee
Rep. Paul Marcotte
Sen. Daniel Mongiardo
Rep. Marie Rader
Sen. Richard Sanders
Rep. William Scott
Rep. Tommy Turner
Rep. Mike Weaver

Rep. John Arnold
Rep. Larry Belcher
Rep. John Bowling
Rep. Denver Butler
Rep. Howard Cornett
Rep. Keith Hall
Sen. Paul Herron
Sen. Dan Kelly
Sen. Bob Leeper
Rep. Charles Miller
Rep. Lonnie Napier
Sen. Albert Robinson
Sen. Ernesto Scorsone
Rep. Jim Thompson
Rep. John Vincent

LRC STAFF: Kathy A. Kackley, John Snyder, and Linda Hughes

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE 2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

INTERIM JOINT COMMITTEE ON TRANSPORTATION

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

**REPORT OF THE 2002
ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

Rep. John A. Arnold, Jr., Chair

Rep. Woody Allen
Rep. James Bruce
Rep. Jimmie Lee
Sen. Marshall Long
Sen. Joey Pendleton
Sen. Richard L. Roeding

LRC STAFF: Susan Wunderlich, Dave Nicholas, Donna Little, Edna Lowery,
Karen Smith, Sarah Amburgey, Donna Kemper, and Ellen Steinberg

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

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

SUBCOMMITTEE ACTIVITY

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

During the period January 2002 through October 2002, executive branch agencies filed 148 emergency administrative regulations and 476 ordinary administrative regulations. Of the ordinary administrative regulations filed, 103 were new, 347 were amendments to existing administrative regulations, and 26 were amended after public hearing. The Administrative Regulation Review Subcommittee reviewed all of the ordinary administrative regulations. Of those administrative regulations reviewed, none was found deficient, 322 were amended to conform with KRS Chapter 13A and other appropriate statutes, and 154 were approved as submitted by the agency.

In August of 2002 the Legislative Research Commission published the *Administrative Regulations Service of Kentucky*, which contains administrative regulations in effect as of August 15 of each year.

The subcommittee is developing a computer program to standardize forms relating to the filing of administrative regulations and other material presented by administrative bodies at subcommittee meetings and is conducting training classes to assist administrative bodies in drafting administrative regulations.

**REPORT OF THE 2002
CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

**Rep. Jodie Haydon, Chair
Sen. Bob Leeper, Vice Chair**

Sen. Tom Buford
Sen. Bob Jackson
Rep. Jim Wayne

Rep. Robert Damron
Rep. Paul Marcotte

LRC STAFF: Mary Lynn Collins, Pat Ingram, Nancy Osborne, Kevin Mason, and
Shawn Bowen

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 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, charged with overseeing (1) the expenditure of funds budgeted for capital projects; (2) the allotment of funds from the Emergency Repair, Maintenance, and Replacement Account and the Capital Construction and Equipment Purchase Contingency Account; (3) the state's acquisition of capital assets, including the lease of real property; (4) the issuance of bonds by the Commonwealth, and related individual projects; and (5) the issuance of bonds by or on behalf of local school districts.

COMMITTEE ACTIVITY

As a statutory committee, the Capital Projects and Bond Oversight Committee meets monthly, even when the General Assembly is in session. This report covers committee activity between November 1, 2001, and October 31, 2002. During this period, the committee met thirteen times, which included one special meeting in February during the 2002 Regular Session relating to the renovation by Western Kentucky University of the E. A. Diddle Arena. Ten of the committee's meetings were held in Frankfort in the Capitol Annex. Two meetings were held on university campuses: Western Kentucky University and Murray State University. A description of various issues considered by the committee during the reporting period follows below.

Creative financing proposals. The committee spent parts of several committee meetings considering unusual interim proposals by universities to finance new construction or make improvements to existing facilities.

One project involved the renovation of Western Kentucky University's Diddle Arena. That proposal called for the City of Bowling Green to issue \$32.5 million in general obligation bonds to renovate the arena. Western Kentucky University (WKU) would retain ownership and control of the arena and commit to funding the associated debt service through a student fee. The University originally sought approval through the interim process, but it was later concluded that the proposal required approval from the General Assembly.

As part of its work on the issue, the committee asked that representatives of the Finance and Administration Cabinet, the Council on Postsecondary Education, the Attorney General's Office, and the State Auditor's Office review and make recommendations to improve the process of reviewing proposals similar to the Diddle Arena renovation in the future. The committee received the report entitled *Alternative Approval and Financing Methods for Capital Construction Projects at State Universities* in November 2001. The report identified a number of conditions that should be met when an outside entity provides initial financing of a project. In presenting the report, the Deputy Secretary of the Finance and Administration Cabinet emphasized the state's

interest in assuring that whenever alternative financing arrangements are proposed, the state's debt capacity is not adversely affected.

After the Diddle Arena Renovation was approved by the 2002 General Assembly (Senate Bill 54), WKU submitted to the committee, as directed by the legislation, the Memorandum of Agreement between WKU and the City of Bowling Green, which was approved.

In October 2002, the committee reviewed and gave tentative approval to Murray State University to use a similar funding mechanism for a proposed Recreation/Wellness Center, a project included in the Governor's Fiscal Year 2003 spending plan. Under this proposal, the City of Murray will issue general obligation bonds not to exceed \$10 million. Murray State University and the City will enter into a Memorandum of Agreement whereby the city will transfer the net bond proceeds to the University, and the University will assure a student fee will be assessed in amounts sufficient to cover the associated debt service.

Review of an unauthorized project. Parts of several committee meetings involved review of a \$3.5 million renovation of the University of Kentucky (UK) baseball stadium by the Wildcat Foundation. The committee expressed various concerns relating to this project: (1) the project was not authorized; (2) the Wildcat Foundation was not able to raise the necessary funds, and as a result, proceeds from the University's Blue-White Fund had to be used to pay contractors; and (3) state procurement rules and the prevailing wage law were not followed.

In May 2002, UK's Senior Vice President for Administration appeared before the committee to discuss the project. The committee requested quarterly reports relating to efforts to repay the Blue-White Fund, and then asked a working group of state officials to be constituted to consider the issues raised. The working group, made up of representatives from the Finance and Administration Cabinet, the Council on Postsecondary Education, the Attorney General's Office, the State Auditor's Office, and the Governor's Office for Policy and Management, submitted its report to the committee in September 2002. The Deputy Secretary of the Finance and Administration Cabinet told the committee that the working group had determined that the baseball stadium project should have been reported to the committee prior to project implementation. She noted that the statutory definition of a capital project specifically states that the source of funding is not material, so whether the project involves a non-governmental entity or foundation, the project should be reported to the respective executive and legislative branch agencies. Upon receipt of the report, the committee Chair asked two members to work with staff to develop a draft committee policy on the review of unbudgeted projects. The committee is to consider the draft policy at a future meeting.

The committee also asked the Labor Cabinet Secretary to review the stadium project and determine whether the state's prevailing wage law is applicable. A report of the Secretary's findings is anticipated in the coming months.

Alternative methods of construction delivery. At the committee's request, the Finance Cabinet submitted to the committee three contracts using an alternative construction delivery method referred to as "design-build." Under this delivery system, a team is hired under a single procurement for design and construction rather than the traditional method where a construction contract is not awarded until design is completed. These three contracts (the Morehead State University Family Housing Project, the Kentucky Higher Education Assistance Authority Office Building in Frankfort, and the Elliott County Medium-Security Correctional Facility) represent the Cabinet's first efforts with the alternative method. The Cabinet indicated that they were also considering another alternative method, "construction management-at-risk," in which a construction manager is used instead of a general contractor.

Monitoring of the Budget Reserve Trust Fund. In December 2001, after receiving a report from the Capital Planning Advisory Board, the committee took action to recommend to the Governor and the General Assembly that the highest capital funding priority for the 2002–04 budget should be replenishment of the Budget Reserve Trust Fund (BRTF), which had been heavily used to address budget shortfalls. In taking this action, the committee indicated replenishment of the fund was an important step needed to maintain the state's excellent bond rating. The committee continued to monitor the use of the Fund, which was depleted by budget reduction measures by the end of FY 2001/02 (June 30, 2002).

Monitoring of the state's credit rating. As indicated above, the committee had concerns about the state's credit rating and followed closely various actions taken by the agencies that rate the state's credit. The Executive Director for the Finance Cabinet's Office for Financial Management periodically reported on discussions his office had with the various bond rating agencies and briefed the committee on the actions taken by those agencies regarding Kentucky. The latest action took place on October 9, 2002, when Standard and Poor's downgraded the Commonwealth's issuer credit rating from AA to AA-.

Governor's Executive Spending Plan for FY 2002/03. On June 26, 2002, the Governor issued an executive order to establish a spending plan for the Executive Branch for FY 2002/03 due to the failure of the 2002 General Assembly to enact a budget. For purposes of establishing the legality of the plan, the State Treasurer filed a declaratory judgment in July relating to the spending plan in Franklin Circuit Court; numerous parties have intervened and the case is ongoing. The committee sent correspondence to the Finance and Administration Cabinet, and to the three universities that manage their own capital construction, requesting each to report on any projects initiated under the spending plan.

State office space. The committee continued its concern regarding the state's heavy reliance on rental property and the lack of competition for state leases in Franklin County. The committee heard a report in December 2001 from Finance and Administration Cabinet officials relating to the various approaches to financing new office space, including the use of a lease-purchase arrangement under which another

government entity or the private sector would construct the space. The committee also monitored the efforts of an interagency task force, led by the Finance and Administration Cabinet, to develop initiatives to use more efficiently space the state owns or leases. These initiatives may include consolidation and regionalization of some existing offices.

Lease procurement by postsecondary education institutions. After reviewing several lease procurements by postsecondary institutions in which mistakes were made, the committee asked the Council on Postsecondary Education (CPE) and the Finance and Administration Cabinet to work together to provide advice and assistance regarding lease procurement to postsecondary institutions. As a result, the two agencies offered a training session that focused on the leasing statutes as well as those pertaining to the purchase and sale of real property.

Fire safety in student housing. The committee received reports from both CPE and the Association of Independent Kentucky Colleges and Universities relating to the status of sprinkler installations in the state's postsecondary institutions. (This has been an issue of ongoing concern to the committee, since the death of a Murray State University student in a dormitory fire in 1998.)

Policy on closeout of completed capital projects. During the course of review of some projects, it became evident that moneys were being held in various project accounts long after projects were completed despite the requirement in KRS 45.770(4) that project accounts be closed thirty days after project completion. In response to a committee request, the Finance and Administration Cabinet and the Governor's Office for Policy and Management agreed to provide the committee with a quarterly update on the closeout of project accounts and include an explanation any time a project account remains open more than a year after the beneficial occupancy date.

Kentucky Infrastructure Authority (KIA) projects and engineering fees. After observing increasing engineering costs in a number of KIA projects, the committee asked the KIA Executive Director to report to the committee on how that agency reviews engineering fees. The Executive Director indicated that KIA would be adopting the fee schedule developed by the Federal Rural Development Agency and would be developing a procedures and policy manual for all KIA projects. The new policies should be in place by the beginning of 2003.

Review of Unbudgeted Capital Projects

The committee approved ten unbudgeted capital projects with a total scope of approximately \$12.8 million. KRS 45.760(14) permits a capital construction project to be authorized even though it is not specifically listed in an enacted budget if at least fifty percent of the costs are from private or federal sources, and if the project is presented to the committee for review. The unbudgeted projects approved by the committee were funded through a mixture of federal grants, state funds (mostly restricted funds), and private donations as follows:

Department of Military Affairs – Bluegrass Station Division Roof Replacement (\$1,220,000 restricted funds); Directorate of Logistics Building Addition (\$840,000 federal funds); Bluegrass Station Helicopter Repair Facility (\$1,036,000 federal/restricted funds); 500 Seat Auditorium (\$820,000 federal funds); Facilities Management Building Addition (\$820,000 federal funds); Engagement Skills Trainer Building (\$459,000 federal funds).

University of Kentucky – Remove and Replace Nutter Fieldhouse Running Track (\$220,000 private funds and \$215,000 restricted funds); Hope Lodge (\$4,000,000 private funds from American Cancer Society).

Cabinet for Health Services - Biological Testing Lab Renovation (\$931,000 federal funds); Lab Information Management System (\$775,000 federal funds).

Transportation Cabinet – Design of Statewide Transportation Operations Center for the New Transportation Building in Frankfort (\$1,036,000 federal funds and \$412,500 road funds).

In addition, the committee approved an unusual unbudgeted project, which was part of a food services contract: **Western Kentucky University** reported a contract with Aramark Food Service, which contained an agreement that Aramark would make certain capital improvements and install equipment/furniture items valued at \$3,500,000.

Two emergency unbudgeted projects were also reported. The first report was by the **Department of Parks** – Fort Boonesborough State Park to establish a repair project, using insurance proceeds, due to a February 2002 fire at the park requiring reconstruction of several buildings. Similarly, an emergency unbudgeted project was reported by the **Kentucky Community and Technical College System (KCTCS)** to address Emergency Structural Repair and Mold Abatement in the Gray Building at Madisonville Community College. Source of funds for this project (\$582,000) was the 2000-02 Capital Renewal and Maintenance Pool, administered by the Council on Postsecondary Education.

Also, the committee reviewed reports from the University of Louisville, the University of Kentucky and the Natural Resources and Environmental Protection Cabinet concerning various scientific equipment purchases, totaling \$2,111,146.

Review of Budgeted Capital Projects

The committee reviewed agency requests to increase the scope of eight previously authorized capital projects, using private, federal or restricted (agency) funds. Requests were made primarily to permit the awarding of contracts when bids exceeded budget. 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 fifteen percent of a project's authorized scope must be funded by federal or private funds.

University of Kentucky – Women's Basketball Office Renovation (\$350,000 private funds increase for revised scope of \$900,000); Center for Rural Health (\$2,000,000 federal funds increase for revised scope of \$11,100,000).

Kentucky State University – Aquaculture Classroom and Lab (\$150,000 federal funds increase for revised scope of \$800,000.)

Justice Cabinet – Law Enforcement, Basic Training Complex (\$1,275,000 restricted funds increase for revised scope of \$28,800,000).

Kentucky Community and Technical College System – Maysville Community College, Cynthiana extension (\$219,000 private funds increase for revised scope of \$3,350,000); Somerset Community College, Stoner Building (\$50,000 restricted funds increase for revised scope of \$449,000.) This project was initiated by KCTCS under its Deferred Maintenance and Government Mandate Pool.

Veteran's Affairs – Western Kentucky Veteran's Cemetery (\$150,000 federal funds increase for a revised scope of \$6,455,000).

Kentucky Higher Education Assistance Authority – Office Building (\$1,200,000 federal funds for a revised scope of \$12,000,000).

In addition, the **Department of Parks** reported transfer of funds (\$135,231) to the Dale Hollow State Resort Park New Conference Center (\$135,231) from the balance left from the Dale Hollow Guestroom project account. This increase was submitted as an information item, and the committee took no action.

The committee also received reports by the Horse Park, Northern Kentucky University, and Morehead University concerning land acquisitions previously authorized by the General Assembly.

Review of Allocations from the Statutory Capital Funds

Capital Construction and Equipment Purchase Contingency Account. Six allocations were made from the Capital Construction and Equipment Purchase Contingency Account during the reporting period totaling \$1,568,500. In November 2001, the committee approved an allocation of \$60,000 from the Contingency Account to the **Natural Resources and Environmental Protection Cabinet** - Maxey Flats Replacement Structures (originally authorized by the 2000 General Assembly at a scope of \$390,000) to address a cost overrun; also approved was \$10,000 in restricted (agency) funds for the project. Also in November, the committee approved an allocation of

\$322,500 to complete parking for the **Department of Parks – Dale Hollow Lake State Resort Park New Conference Center** (original scope authorized by the 2000 General Assembly at \$2,150,000 Bond Funds). In December 2001, an allocation of \$75,000 was approved for dredging associated with constructing a boat ramp for the **Department of Parks – Jenny Wiley State Resort Park** (original scope authorized by the 2000 General Assembly at \$500,000 Bond Funds).

In January 2002, an allocation of \$85,000 was approved for the **Department of Parks – Blue Licks Battlefield State Park Food Service Expansion** (original scope authorized by 2000 General Assembly at \$750,000) to address a cost overrun; also, \$146,000 from the account of the original lodge project (Blue Licks Lodge – Phase I) was transferred to address the cost overrun. In February 2002, the committee approved an allocation of \$876,000 for the **Tourism Development Cabinet – Berea Artisans Center** (original scope authorized by 1998 General Assembly at \$6 million, the 2000 General Assembly authorized an additional \$1.4 million from the General Fund and \$600,000 from the Road Fund) in order to accommodate the use of slate shingles for the roof and stucco for exterior applications.

The final Contingency allocation for this reporting period was approved in July 2002 for \$150,000 for the **Department of Parks – Mineral Mound State Park Golf Course** (original scope authorized by the 1998 General Assembly at a scope of \$5,000,000 Bond Funds). The committee was told that even with this increase, this golf course and five others recently completed or nearly completed would only be maintained “on a custodial basis” pending additional funding.

Emergency Repair, Maintenance, and Replacement Account. The committee reviewed eight allocations from the Emergency Repair, Maintenance, and Replacement Account totaling \$6,240,000. In November 2001, an allocation of \$650,000 was made to increase the scope of the **Justice Cabinet – Kentucky State Reformatory Administration Building**, a project originally authorized by the 2000 General Assembly at a scope of \$1,610,000. Two allocations were approved in December 2001 for the **Kentucky Community and Technical College System**. An allocation of \$150,000 was for the **Hazard Technical College Heavy Equipment Building** to repair storm damage. The other allocation was for \$900,000 to the **Maysville Community College Administration/Denham Buildings** to abate mold/fungi problems. In April, an allocation of \$350,000 was made to the **Kentucky State Police** for engine repair of their **King Aircraft**; the agency pledged to replenish the Account on a dollar-for-dollar basis.

Two allocations were made in May, including a second allocation from the Account for abatement of mold/fungi problems for the **Maysville Community College Administration / Denham Buildings** of \$1,800,000. The other allocation was for \$190,000 to repair stone that was falling from the façade of the **Camden-Carroll Library at Morehead State University**; this repair represents the emergency portion of a bigger project that the university plans to pursue later. Two allocations were made in July, including a third allocation from the Account for abatement of mold/fungi problems for

the Maysville Community College Administration / Denham Buildings for \$1,300,000; a total of \$4 million from the Emergency Repair, Maintenance, and Replacement Account has been allotted to this project. The other allocation was for **Eastern Kentucky University** to repair its Electrical Distribution System in the amount of \$900,000, which was to be matched by \$900,000 in agency Restricted Funds.

Statewide Deferred Maintenance Pool. There was one allocation, reported in December 2001, from the Statewide Deferred Maintenance Pool Account of \$198,000 to make various repairs and renovations at the Kentucky Horse Park in the **Tourism Development Cabinet**.

Highway Construction Contingency Account. There was one allocation, reported in November 2001, from the Highway Construction Contingency Account of \$59,600, to meet the low bid to construct the new **Transportation Cabinet** – Elizabethtown District Office Building (originally authorized by the 2000 General Assembly for \$3,810,000 from the Road Fund). In October 2002, a second scope increase for this project was reported in the amount of \$152,000, but the fund source was the Transportation Cabinet's General Administration and Support, Furnishings Account, rather than the Highway Construction Contingency Account required by KRS 45.760 for scope increases.

Review of Bond-Funded Loan/Grant Programs

The committee reviewed and approved five grants, representing \$1,750,000 from the **Economic Development Bond (EDB) Pool**. This bond-funded program makes grants (forgivable loans) to local governments to leverage against private investment for economic development in the Commonwealth. In return for the assistance, companies are required to make commitments regarding job creation and/or job maintenance. The five projects funded and the amount of EDB assistance awarded were Pulaski County, Southern Kentucky Economic Development Corporation (\$400,000); Casey County, OBG Manufacturing, Inc. (\$50,000); Calloway County, Rudolph's, Inc. (\$200,000) and Calloway County, Pella Corporation (\$800,000); and Fayette County, Webasto Roof Systems, Inc. (\$300,000).

The committee also reviewed an EDB grant in the amount of \$7,988,000 for the Hardin County Fiscal Court. The Economic Development Cabinet proposed to issue this grant to the Hardin County Fiscal Court (Hardin County) to purchase, or have the Elizabethtown-Hardin County Industrial Foundation, Inc. (Industrial Foundation) purchase approximately 1,600 acres of contiguous land for use in attracting a major manufacturing facility to Hardin County. The total land cost was estimated at \$17.7 million. Citing concerns about the state's purchasing such a large tract of land with no prospective clients, the committee voted to delay consideration of the project until its July 2002 meeting. However, shortly after the June meeting, the Finance and Administration Cabinet Secretary notified the committee by letter that he had decided to proceed with the land acquisition project, and the sale of bonds to finance the project.

Also reviewed was a report of EDB job creation and job maintenance requirements for projects previously approved by the committee. Of the twenty-two projects currently being monitored by the Cabinet for Economic Development, thirteen (59%) are in compliance with job creation and maintenance requirements.

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

1. **Fund A (Federally Assisted Wastewater Revolving Loan Fund)**
- Nine loans, including one planning and design loan, totaling \$42,780,672 for the cities of Mt. Sterling, Shepherdsville, Greenville, Marion, Lebanon Junction, Harrodsburg, Wurtland, Salyersville, and London.
2. **Fund C (Government Agencies Program, user-supported)** -
Two loans, totaling \$5,670,000, for the City of Nicholasville and McCreary County.
3. **Fund E (Solid Waste Revolving Loan Program)** - Three grants under the Kentucky Certified Clean Counties Program totaling \$740,682 for the counties of Pike, Kenton and Bell. (The Kentucky Certified Clean Counties Program was established by Executive Order 2001-384 in March 2001 to assist counties in cleaning up illegal dumps. The first grants from Fund E loan repayments were made in August 2001 and the last was in April 2002, leaving a balance of about \$300,000 in Fund E. In addition to Fund E loan repayments, funds from the Transportation Cabinet have also been made available to participating counties for up to 75% of cleanup costs.)
4. **Fund F (Federally Assisted Drinking Water Revolving Loan Fund)** - Eleven loans totaling \$22,217,238 for the City of Grayson, the Logan/Todd Regional Water Commission, the North Logan Water District, the City of Taylorsville, the City of Hopkinsville, the City of Louisa, the City of Booneville, Madison County, Bracken County Water District, Bowling Green Municipal Utilities, and the Greater Fleming County Regional Water Commission.
5. **\$50 million Water Resources Development Bond known as 2020 Grants** - The 2000 General Assembly authorized a bond issue with debt service payments from the Phase I Tobacco Settlement Funds to be used for drinking water infrastructure projects. In December 2001, the KIA board conditionally

committed all available funds as grants, to be matched 50% with other funds, for 155 projects totaling \$49,475,284. Repayments from the Fund B, Infrastructure Pool, was also conditionally committed to thirty-one projects totaling \$18,632,146. The projects are located in ninety counties. As each project verifies its matching funds and completes other program requirements but prior to final execution of the assistance agreement between KIA and the grantee, the project is reported to the committee. Between April 2002 and October 2002, forty-two projects were reported to the committee that had completed program requirements and were ready for execution of the assistance grant totaling \$22,407,917 in 2020 Grants and \$4,427,000 in Fund B repayments.

Review of Bond Issues and Financing Agreements

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

1. **Kentucky Economic Development Finance Authority (KEDFA)** - In these particular issues, the state is only a conduit for the sale of the bonds and has no liability for their repayment. Two KEDFA bond issues were approved during the reporting period: a \$2,500,000 issue on behalf of the Baptist Homes Inc. to fund three assistive living facilities and a \$40,000,000 issue by Centre College, which included refinancing as well as new money for campus improvements. A third issue, submitted on behalf of Republic Services, Inc. (\$12,195,000), to fund various waste management projects was rejected by the committee, and that issue was never finalized by KEDFA.
2. **State Universities** - Three bond issues, totaling \$14,185,350, to fund authorized projects and to generate debt service savings by refinancing existing debt. The committee also reviewed a \$15,637,100 Northern Kentucky University Certificates of Participation (COPS), Series 2002 bond issues. The certificates were being issued to provide funds to build a student housing facility. COPS are non-state issued debt instruments sold by private entities but repaid with state appropriations pursuant to lease agreements.
3. **Kentucky Higher Education Student Loan Corporation** – One new issue for \$150,000,000 to provide new money for student loans.
4. **Kentucky Housing Corporation** – Four new issues, totaling \$685,745,000, to fund the purchase of low-income multi-family

and single-family housing mortgages and to refund existing financing.

5. **School district bond issues with School Facilities Construction Commission participation** – Sixty-eight issues, totaling \$253,056,000.
6. **School district bond issues 100% locally funded** – Thirty-nine issues, totaling \$209,735,000. Included in the total was a \$6.1 million Kentucky Interlocal School Transportation Association (KISTA) issue to finance the purchase of school buses for thirty-six school districts and a \$32.1 million Jefferson County Tax and Revenue Anticipation Note (TRAN) issue. Proceeds from the TRAN are used to manage the cash flow of the district.
7. **Kentucky Asset/Liability Commission** – Two project note issues totaling \$79,805,000. Proceeds from a General Fund issue (\$14,145,000) provided interim financing for Economic Development Bond Pool projects as reauthorized by the 2000 General Assembly. Proceeds from an agency funded issue (\$65,660,000) provided interim financing for construction projects at several universities and the Kentucky River Authority. General Fund Tax and Revenue Anticipation Notes in the amount of \$604,244,000 were also considered.
8. **State Property and Buildings Commission** – Five issues, totaling \$791,815,000, to provide long-term financing for projects authorized by the 2000 General Assembly. The issues also provided proceeds to refund existing bonds to gain a savings in debt service expense.

Review of State Leases

The committee reviewed thirty-seven state agency lease modifications. Twenty of these lease modifications increased annual rental payments by a total of \$187,319 to cover the cost of state agency requested improvements. Another thirteen increased the amount of space leased and four decreased the amount of leased space.

The committee approved the award by the Finance and Administration Cabinet of three renewal leases for office space in Fayette and Jefferson Counties. Together, the three renewals represented \$62,661 in increased annual rental costs.

In addition, the committee approved three new leases for state agencies, two of which are to replace state-owned office space. In the first case, the Cabinet for Families and Children submitted a request for a private lease (\$292,498 annual costs) with the City of Ashland since the state has made the decision to vacate and surplus the state-

owned building in Ashland, formerly a TB hospital. The hospital is fifty years old, does not meet life safety codes, and is in need of a major renovation. Two other state agencies currently located in the building, Natural Resources and Environmental Protection Cabinet and the State Police, are also seeking new space in Ashland, and lease reports relating to those agencies are anticipated in the coming months.

In the second case, the Cabinet for Health Services submitted a request to move a certain portion of its administrative offices, now housed on the campus of Eastern State Hospital, to the federal VA Hospital on Leestown Road in Lexington (\$238,427 annually). The Cabinet plans to eventually move all its operations at Eastern State Hospital to the Lexington VA Hospital.

Finally, the Cabinet for Families and Children submitted a request for a new lease for office space in Florence (\$233,156 annual costs) to replace other space currently leased in Florence. This new lease includes substantially more space and represents a 100% increase in costs.

The committee also reviewed five leases for postsecondary education institutions: an emergency lease for office space in Fayette County for the Kentucky Community and Technical College System's Office of Information Technology; two leases for student housing for the University of Kentucky (UK) and Northern Kentucky University because of unexpected demand for on-campus housing; a new building to be constructed and leased for Northern Kentucky University's Metropolitan Education and Training Services; replacement space for the UK College of Medicine CATS (Comprehensive Assessment and Training Service) Project; and office and classroom space for UK in downtown Lexington.

The UK lease with Kentucky Utilities (KU) for office and classroom space in downtown Lexington was unusual in that in addition to the \$294,156 annual base rent, UK had agreed to provide certain in-kind services and promotional benefits including KU advertisement at ball games and funding of an endowed engineering professorship in KU's name. Also, the lease contained a 365-day cancellation clause which appeared to be in conflict with KRS 56.806, which requires leases to have a 30-day cancellation clause.

In August 2002, the committee delayed action on this lease and asked for an Attorney General's opinion on the use of in-kind services and whether KRS 56.806 permits an exception to the 30-day cancellation clause requirement. Subsequent to the meeting, a UK official informed the committee that the lease had been amended to include a 30-day cancellation clause, and because classes had already been scheduled in the facility, the University was proceeding with the lease. At the end of the reporting period, the Attorney General's Office had not yet released an opinion in response to the committee's request.

Review of Court Projects

The committee reviewed and approved one request by the Administrative Office of the Courts to use the Court Facility Use Allowance Contingency Fund for the Webster County Courthouse Project initially authorized as part of a construction pool by the 1996 General Assembly. The project was revised by the 1998 General Assembly at a scope of \$2,265,000 with a maximum annual use allowance of \$181,400. The project includes a new two-story justice center and renovation of the existing third floor circuit courtroom. Through the use of the Contingency Fund, the annual use allowance was increased by \$27,210 and the revised scope is \$3,620,000.

**REPORT OF THE 2002
CAPITAL PLANNING ADVISORY BOARD**

**Rep. Perry Clark, Chair
Mr. Bill Hintze, Vice-Chair**

Rep. Brian Crall
Mr. Sherron Jackson
Ms. Cicely Jaracz Lambert
Mr. Glenn Mitchell
Ms. Norma Northern
Mr. Laurel True
Judge William Wehr

Mr. James Deckard
Mr. Lou Karibo
Mr. William H. May, III
Sen. Virgil Moore
Sen. Albert Robinson
Mr. Garland Vanhook

LRC STAFF: Pat Ingram, Mary Lynn Collins, Nancy Osborne, and Dawn Groves

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

CAPITAL PLANNING ADVISORY BOARD

JURISDICTION: The 1990 General Assembly established the Capital Planning Advisory Board (CPAB) of the Kentucky General Assembly, comprised of members representing all three branches of government. Pursuant to statute, the Board is to create a six-year comprehensive statewide capital improvements plan, encompassing all state agencies and universities, to be submitted to the heads of the three branches—the Governor, the Chief Justice, and the Legislative Research Commission—by November 1 of each odd-numbered year. This schedule enables the comprehensive capital plan to be used in the subsequent budget process and legislative session. The Board is required to meet at least twice in each calendar year.

BOARD ACTIVITY

Since adjournment of the 2002 Regular Session, the Capital Planning Advisory Board has held two meetings. On July 10, 2002, the Board met at the Kentucky Department for Libraries and Archives (KDLA) in Frankfort. Representatives of the Finance and Administration Cabinet reported on the status of two ongoing projects: (1) a study of state leasing and space utilization, and (2) the implementation of an executive branch real properties / facilities management database. The agenda also included a presentation on the various KDLA programs and issues, particularly as they relate to records storage. A brief tour of the KDLA facility followed the meeting.

On September 20, 2002, the Board convened at the Christian County Justice Center in Hopkinsville Kentucky for a brief business meeting. The agenda included an update relative to (1) development of the instructions and forms for agencies to use in submitting their 2004-2010 capital plans, and (2) establishment of a scoring system for proposed projects to be used by the Board as one input into the development of project recommendations for the 2004-2010 statewide capital improvements plan. Following the brief business meeting, the members toured various state facilities in Hopkinsville including the Christian County Justice Center, Western State Hospital, Murray State University's Regional Campus and Breathitt Veterinary Center, and the Hopkinsville Community College campus.

The Board will meet once more in 2002. The major item on that agenda will be action on the instructions and forms for the 2004-2010 agency capital plan submissions.

**REPORT OF THE 2002
EDUCATION ASSESSMENT AND ACCOUNTABILITY
REVIEW SUBCOMMITTEE**

**Sen. David Karem, Vice-Chair
Rep. Harry Moberly, Vice-Chair**

Sen. Lindy Casebier
Rep. Mary Lou Marzian
Sen. Tim Shaughnessy

Sen. Dan Kelly
Rep. Frank Rasche
Rep. Mark Treesh

LRC STAFF: Sandra Deaton and Kelley McQuerry.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 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 three times prior to October 31, 2002.

The subcommittee was directed by 2000 House Concurrent Resolution 88 to study the issues of the adequate preparation of elementary and secondary school students for promotion to higher grades, the establishment of appropriate educational criteria for entrance into higher grades, and the remediation rates of students entering postsecondary educational institutions. In December 2001, the subcommittee reviewed draft recommendations and invited the Commissioner of Education to address the recommendations.

In January 2002, the Commissioner testified that the subcommittee's report on the adequate preparation of elementary and secondary students for promotion to higher grades is consistent with the work that has been done in the Department of Education. He said that the early determination of students' needs is critical to educational success and schools are successful when staff and faculty believe that all students will meet high expectations. He said that every school is required to have comprehensive planning and the major differences among schools occur when the plan is a working document that focuses on and drives the decisions in the school. He said that many schools allocate their time well to allow great collaboration among the staff. He said it is important to get the majority of schools using successful practices, particularly in encouraging collaboration among teachers in the areas of planning, teamwork, and instructional design.

During the second meeting, the Commissioner of Education and the two Deputy Commissioners of the Department of Education gave the subcommittee an overview of the new federal legislation "No Child Left Behind." The Commissioner said that many of the components in the federal law echo the key elements of the Kentucky Education Reform Act (1990). The law pushes the issue of accountability for results to a higher level than has been seen before, promises increased flexibility at the local level, and expands opportunities for parents to make decisions in terms of failing schools.

The Commissioner said that the law requires states to have a single statewide accountability system that includes rewards and sanctions, and to align all the standards to what is being done in professional development, teacher preparation, and instructional design. He said the legislation requires a new concept of "adequate yearly progress" and requires a timeline for achieving the federal goals for the next twelve years that will lead to the year 2014, the same year that Kentucky has set as an achievement goal for

Kentucky schools. He said there would be annual assessments for mathematics and reading and a future goal for science assessments. He said that it requires states to deal with achievement gaps in the areas of race, disabilities, and socio-economic status. He said that states would also be required to participate in the National Assessment of Education Progress, a test Kentucky has voluntarily participated in for many years.

The Deputy Commissioners discussed the other components of the law including teacher quality and reading improvement, two areas that Kentucky policy makers and educators have been working to improve.

At the third meeting, the Commissioner of Education discussed the renewal of the contract with CTB/McGraw-Hill to administer the Commonwealth Assessment Testing System that was awarded in September 1998 and ended September 30, 2002. The contract included a four-year renewal option. He said that CTB/McGraw-Hill was awarded the contract as the prime vendor who chose to use two subcontractors, Data Recognition Corporation (DRC) and West Ed. He said that in May 2002, the Finance and Administration Cabinet issued a renewal of the contract for a four-year term effective October 2002 with the concurrence of the Department of Education. The Department wants CTB/McGraw-Hill to begin to use image scoring that will help get the test results back to schools sooner. He said that there are no significant changes to the contract at this point, though there may be adjustments to the contract to comply with the “No Child Left Behind” implementation.

The director of the Office of Education Accountability (OEA) presented a report to the committee on issues related to the work of OEA. He said that KRS 7.410 requires OEA to submit the annual report each calendar year, but does not have a due date. It also requires a report on the school finance system by October 1 of each year. He said past reports have been submitted as one document on the same date, but that the reports need to be separated so that each one can have full detail. By voice vote, the subcommittee agreed that the finance report and the annual report be prepared as two separate reports. The reports will be given to the subcommittee in draft form with a discussion of the issues, the background of the issues, and possible options for the subcommittee to consider. The drafts will be circulated to various stakeholders so that the subcommittee will have the benefit of their comments before approval is given.

The director reported on the study required by SB 166 (2002). He said the legislation requires OEA to review personnel policies in districts that have at least an eight-percent minority student population but do not have minority staff equal to the eight percent. He said that forty-five districts fit this category and that the legislation also requires a review in districts that have received complaints related to discriminatory practices in hiring or dismissal. He said that adds six more districts to the number with a total of fifty-one districts with five hundred or more schools. He said the study requires review of district documents and interviews with staff at the local school level with a report to the committee by November 2003.

The director reported that he had spoken with the members of the National Technical Advisory Panel on Assessment and Accountability (NTAPAA) about the external validation of the state assessment program required by law. The subcommittee authorized the director to develop a plan for external validation, seeking direction from NTAPAA, and bring it back to the subcommittee for consideration.

**REPORT OF THE 2002
GOVERNMENT CONTRACT REVIEW COMMITTEE**

Representative Brent Yonts, Chair

Rep. Jesse Crenshaw
Sen. Robert L. “Bob” Jackson
Rep. Kathy W. Stein

Rep. Bob Heleringer
Sen. Marshall Long
Sen. Katie K. Stine

LRC STAFF: Michael L. Meeks, Kim M. Eisner, Lisa L. Whittaker, Joseph Hood,
Jennifer A. Wilson, and Kathy Green

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

GOVERNMENT CONTRACT REVIEW COMMITTEE

JURISDICTION: Review of all non-exempt memoranda of agreement by and between state agencies, and review of all non-exempt personal service contracts by state agencies and by off-budget agencies, which include, but are not limited to, the Kentucky Lottery Corporation, the Kentucky Housing Corporation, state universities within the Commonwealth, the Kentucky Employers' Mutual Insurance Corporation, the Kentucky Higher Education Assistance Authority, Kentucky Student Loan Corporation, 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 reached by 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 five thousand dollars per fiscal year, per artist or artists; (2) agreements with public utilities, foster care parents, providers of certain direct Medicaid health care to individuals, individuals performing homemaker services, and transit authorities; (3) agreements between state universities or colleges and employers of students in the Commonwealth work study program; (4) agreements between state agencies and rural concentrated employment programs; (5) agreements between the State Fair Board and judges, officials, or entertainers contracted for events promoted by the State Fair Board; or (6) any other contract that the committee deems inappropriate for consideration.

COMMITTEE ACTIVITY

The Government Contract Review Committee is a statutory committee of the Legislative Research Commission and is required to meet monthly. During the 2001-2002 fiscal year beginning July 1, 2001, and ending June 30, 2002, the Committee reviewed 1,783 personal service contracts and 777 amendments to personal service

contracts. The Committee also reviewed 943 personal service contracts for \$10,000.00 and under, which are submitted to the Committee for informational purposes only.

During the 2001-2002 fiscal year beginning July 1, 2001, and ending June 30, 2002, the Committee reviewed 1,374 memoranda of agreement and 1,751 memoranda of agreement amendments. The Committee also reviewed 1,877 memoranda of agreement for \$50,000.00 and under, which are submitted to the Committee for informational purposes only.

During the 2001-2002 fiscal year beginning July 1, 2001, and ending June 30, 2002, the Committee reviewed a total of 3,503 personal service contract items and a total of 5,002 memoranda of agreement items for a total of 8,505 items.

Since the start of the 2002-2003 fiscal year, beginning July 1, 2002, through November 12, 2002, the Committee has reviewed 1,072 personal service contracts and 181 amendments to personal service contracts. The Committee has also reviewed 522 personal service contracts for \$10,000.00 and under, which are submitted to the Committee for informational purposes only.

Since the start of the 2002-2003 fiscal year, beginning July 1, 2002, through November 12, 2002, the Committee has reviewed 1,098 memoranda of agreement and 425 memoranda of agreement amendments. The Committee also reviewed 729 memoranda of agreement for \$50,000.00 and under, which are submitted to the Committee for informational purposes only.

Since the start of the 2002-2003 fiscal year, beginning July 1, 2002, through November 12, 2002, the Committee has reviewed a total of 1,775 personal service contract items and a total of 2,252 memoranda of agreement items for a total of 4,027 items.

**REPORT OF THE 2002
MEDICAID MANAGED CARE OVERSIGHT ADVISORY COMMITTEE**

**Sen. Vernie McGaha, Co-Chair
Rep. Paul Bather, Co-Chair**

Sen. Walter Blevins
Rep. Jack Coleman
Rep. Steve Nunn
Rep. Dottie Sims

Rep. James Bruce
Sen. Julie Denton
Sen. Dan Seum
Sen. Johnny Ray Turner

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

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

MEDICAID MANAGED CARE OVERSIGHT ADVISORY COMMITTEE

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

COMMITTEE ACTIVITY

As of October 31, 2002, the Medicaid Managed Care Oversight Advisory committee has met one time since the adjournment of the 2002 Regular Session of the Kentucky General Assembly. The next meeting is scheduled for December 3, 2002.

On September 24, 2002, the committee heard an update on the Medicaid program and testimony on the May 2002 performance audit, *Kentucky Can Better Serve Mentally Retarded/Developmentally Disabled Persons*. A summary of these two issues is presented in the following paragraphs.

Medicaid Progress Report

The Secretary of the Cabinet for Health Services and the Chair of the Governor's Steering Committee on Medicaid provided an update on the Medicaid program and strategies employed to resolve the budget imbalance. Key strategies that have been implemented to improve the management of utilization and cost include strengthening program integrity, restructuring reimbursement rates, reengineering the Department for Medicaid Services, retaining an administrative services organization to manage the KenPAC program, retaining a pharmacy benefits manager, and accessing federal matching funds through intergovernmental transfers.

A pharmacy benefit manager (PBM) was retained to manage the pharmacy program and provide clinical analysis. The committee learned that the PBM services were obtained through an extension of the contract with UNISYS, which subsequently subcontracted with the PBM. The cost effectiveness of the cabinet extending the UNISYS contract instead of directly contracting with a PBM was discussed.

Drug class reviews and initiatives implemented upon the recommendation of the Pharmacy and Therapeutics Advisory Committee were presented. Prior authorization of proton pump inhibitors (PPIs) resulted in a reduction of approximately \$4 million for May, 2002. Pharmacy utilization and cost data were presented to the committee. Improved management of the pharmacy program has resulted in a decrease in the number of prescriptions per member per month and an increase in the utilization of generic drugs.

Enrollment and expenditure data was reviewed for state fiscal year 2002. The projected budget status for state fiscal years 2003 and 2004 was presented. The cabinet

reported that it anticipates a deficit of \$216,166,700 for state fiscal year 2004. Pending federal legislation could provide \$9 billion in fiscal relief to state Medicaid programs.

The committee also heard testimony regarding the disproportionate share hospital program and Passport Health Plan, the Region 3 Medicaid managed care partnership in Jefferson County. Renewal of the waiver to continue this partnership is pending approval by the federal Centers for Medicare and Medicaid Services, but is expected to be approved.

Auditor of Public Accounts' May 2002 Performance Audit

The Director of the Performance Audit Division, Office of the Auditor of Public Accounts, reported the findings of the May 2002 performance audit, *Kentucky Can Better Serve Mentally Retarded/Developmentally Disabled Persons*. This audit was to determine whether the Commonwealth is providing optimal care for mentally retarded and developmentally disabled (MR/DD) persons through its Support for Community Living (SCL) waiver, and to determine whether better cost management will permit the Commonwealth to expand community-based services to additional persons. This audit consisted of a sample of twelve SCL waiver providers during a four-year period. The audit revealed 361 deficiencies in critical areas, including problems with criminal record checks, individual rights, safety, incident reporting, and training. There were 299 incidents of alleged abuse and neglect or other serious events in community-based services settings from September 1997 through May 2001, including deaths, injuries, sexual abuse, and physical violence. Deficiencies reported included poor quality of care and oversight, lack of reporting of all incidences of abuse, neglect, or exploitation to the appropriate law enforcement agencies, noncompliance of providers with SCL waiver requirements, lapses in screening job candidates, and the lack of an emergency plan should any provider cease serving Kentucky residents. Recommendations to correct these deficiencies were presented.

The committee learned that ResCare, Inc. provided services to one-third of Kentucky's SCL waiver consumers. The Director of the Performance Audit Division reported concerns with the quality of care provided by ResCare, citing that seven of twelve deaths investigated since Kentucky's SCL waiver began in September 1997 have occurred in ResCare settings.

The audit also revealed that Kentucky's annual cost per person to deliver community-based services to individuals with mental retardation and developmental disabilities is also twice as much as the average cost for several other states that were reviewed. The State Auditor's office recommended that Medicaid consider a daily reimbursement rate for community habilitation services and limit the supports for community living waiver per person cost to that for institutional care, which could result in more people being served.

The committee heard brief comments from the Secretary of the Cabinet for Health Services related to the performance audit report and the recommendations. Concerns with

the report included the comparison of Kentucky's program to other states that provide a completely different array of services and that fraud data was based on a 1992 or 1994 Government Account Office report. Due to time constraints, a full response from the secretary was deferred to the next committee meeting.

FUTURE ACTIVITY

The committee is scheduled to meet on December 3, 2002, to hear continuing testimony from individuals or agencies affected by the performance audit report discussed at the September 24, 2002, meeting. It is expected that testimony will be heard from SCL consumers, providers, and the Cabinet for Health Services. The committee also plans to hear testimony regarding the human transportation delivery system in Jefferson County.

**REPORT OF THE 2002
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

**Rep. H. “Gippy” Graham, Presiding Chair
Sen. Katie Stine, Co-Chair**

Rep. Adrian Arnold
Sen. Charlie Borders
Rep. Jack Coleman
Sen. Ernie Harris
Rep. Charlie Hoffman
Rep. Ruth Ann Palumbo
Rep. Dottie Sims

Rep. Sheldon Baugh
Rep. Dwight Butler
Sen. Brett Guthrie
Sen. Paul Herron, Jr.
Sen. Vernie McGaha
Sen. Dan Seum
Sen. Johnnie Ray Turner

LRC STAFF: Greg Hager, Lowell Atchley, Judy Fritz, Tom Hewlett, Alice Hobson, Joseph Hood, Margaret Hurst, Dan Jacovitch, Erin McNeas, Stacie Otto, Cindy Upton, and Susan Spoonamore

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

JURISDICTION: The Program Review and Investigations Committee is a sixteen-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 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 approve research studies and final reports. Reports are based on staff research but represent the official opinion of the majority of the committee. The committee issues a final report for a study after public deliberations that include the responses of relevant state agencies.

COMMITTEE ACTIVITY

During the 2002 Interim, the Program Review and Investigations Committee has held six meetings through November 2002.

The committee began the 2002 Interim with two studies in progress: the East and West Kentucky Corporations, and the analysis of Support Education Excellence in Kentucky (SEEK). Staff had surveyed the members of the General Assembly during the 2002 Regular Session to solicit suggestions for topics for review by the committee. At the conclusion of the session, background papers were prepared on these topics and any subsequent suggestions that could be used by members of the committee as they decided the research studies they would approve.

The committee held its first meeting of the interim in June and reviewed the study proposal for the SEEK study. This study had been approved at a March 2002 meeting of the committee. After discussion on the proposal, the Superintendent of the Fort Thomas Independent School District and the Superintendent of the Beechwood Independent School District in Fort Mitchell discussed their views on the SEEK formula.

The committee added five studies at its July 2002 meeting: Public Financing of Gubernatorial Elections; the Council on Postsecondary Education's Oversight of State Universities, with Special Attention to Kentucky State University; Medical Malpractice Insurance Premium Costs in Kentucky; the Kentucky Enterprise Zone Program; and the Commonwealth Accountability and Testing System (CATS) Writing Portfolios, Failing Schools, and Dropout Rates. Study proposals for all five have been approved by the committee and the studies are in progress.

In addition, the committee has heard and discussed two follow-ups to studies that were completed last year. One was an informational update of state agencies' actions related to the report *Performance-Based Budgeting: Concepts and Examples*. The follow-

up report for a second study (*Impact Plus: Design of Medicaid-Funded Program for Children with Severe Emotional Disturbance Results in Rapidly Growing Expenditures and Difficult Policy Choices*) reviewed the status of recommendations that had been made in that report. Officials from the Cabinet for Health Services testified and were available for questions from members of the committee.

The committee did an overview of the Adequacy of Adult Abuse Investigation, concerning the quality and timeliness of the State's investigations of alleged abuse, neglect and exploitation of adults in Kentucky's nursing homes.

The committee also had a background overview of Kentucky State University as an informational component of the study: Council on Postsecondary Education's Oversight of State Universities, with Special Attention to Kentucky State University.

The East and West Kentucky Corporations study has been completed and was presented at the October meeting of the committee. The Executive director of the East Kentucky Corporation and the President and the Vice President of the West Kentucky Corporation responded to the report and answered questions. The report, including the recommendations, was approved by the committee.

Two reports were presented at the November meeting. The first was *The SEEK Formula for Funding Kentucky's School Districts: An Evaluation of Data, Procedures, and Budgeting*. The commissioner of the Kentucky Department of Education responded to the recommendations in the report. The committee voted to approve the report. The second report presented was *Public Funding of Gubernatorial Campaigns in Kentucky and Other States*. This was an informational report that contained no recommendations.

The Kentucky Enterprise Zone Program study is scheduled for presentation at the December meeting.

**REPORT OF THE 2002
TASK FORCE ON SERVICES AND SUPPORTS FOR INDIVIDUALS
WITH ACQUIRED BRAIN INJURIES**

**Sen. Julie Denton, Co-Chair
Rep. Mary Lou Marzian, Co-Chair**

Bruce Crump
Linda Dierking
Marilyn Duke
Scott Furkin
Mary Hass
Janell Hill
Chad Jackson
Kevin Lightle
Margaret Pennington
Richard Puvis
Lisa Rice
Elizabeth Runyon
Colleen Ryall
Michael Townsend
Barth Weinberg
James Woodrum

LRC Staff: Murray Wood, Betty M. Davis, Rhonda Carter, Dawn Groves, and
Gina Rigsby

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

TASK FORCE ON SERVICES AND SUPPORTS FOR INDIVIDUALS WITH ACQUIRED BRAIN INJURIES

JURISDICTION: The 2001 General Assembly enacted House Concurrent Resolution 67 establishing a sixteen-member Task Force on Services and Supports for Individuals with Acquired Brain Injuries (ABI). The Task Force was required to develop recommendations regarding accurate assessment of the number of adults and children with ABI who receive publicly-funded services, reducing barriers to existing services, strategies for specialized services that include evaluation and treatment, employment, education, case management, and strategies for decriminalization and diversion from the criminal justice system.

TASK FORCE ACTIVITY

The “ABI Task Force” met seven times between December 12, 2001, and September 30, 2002. Testimony was received from parents, family members, and individuals with brain injuries; the Acquired Brain Injury Services Unit, the Department of Mental Health and Mental Retardation Services, and the Department for Medicaid Services of the Cabinet for Health Services; the Traumatic Brain Injury Trust Fund Board; the Brain Injury Association of Kentucky and the Brain Injury Association of America; and community-based and residential service providers. All meetings were in Frankfort, with the exception of one meeting at Cardinal Hill Rehabilitation Hospital in conjunction with the annual Brain Injury Summit Conference and one meeting at the offices of the Brain Injury Association of Kentucky. Workgroups were established to address improving data collection, refining and developing services for people with acquired brain injuries, increasing capacity for crisis intervention and stabilization services; and, diverting individuals with brain injuries from the criminal justice system to appropriate treatment programs.

The original deadline for submission of the Task Force report was July 30, 2002. The Task force submitted a status report to LRC and requested and received an extension of time to September 30, 2002.

Individuals with brain injury have cognitive, physical, and emotional difficulties that include difficulty driving, working, maintaining relationships, remembering recent events, managing a household, recognizing safety hazards, controlling their behavior, and living and performing daily activities without support. Unlike many other physical conditions, there is often no improvement in the physical condition of the brain, and individuals who sustain brain injuries often have these difficulties for the rest of their lives.

There are two sources of public funding for services specifically designed for individuals with ABI - the Medicaid ABI waiver program and the Traumatic Brain Injury Trust Fund, both of which have restrictions and do not address long term needs. Long-

term services may be available through the programs that provide assistance to other disabled persons, such as Medicaid, Medicare, Social Security Disability, and the Supports for Community Living program and other programs that serve persons with developmental disabilities. Persons who work with ABI indicate that the needs of the persons with ABI are not met through existing service systems because of the unique disabilities that occur with brain injuries, and the lack of awareness and expertise regarding ABI among existing service providers. Many of the existing long term service systems also have waiting lists.

Critical review of program guidelines and eligibility requirements was not completed. There was consensus that the work of the task force should be continued.

RECOMMENDATIONS

The Task Force adopted the following recommendations:

1. Re-establish the task force to further study:
 - a. Barriers to services;
 - b. The fiscal impact of increasing services available to individuals with brain injuries;
 - c. The fiscal impact of increasing the number of individuals served;
 - d. The availability of long-term services and supports; and
 - e. Other system improvements, including but not limited to the creation of mobile assertive community treatment teams and inpatient neurobehavioral units.
2. Encourage the development of regional, multidisciplinary clinical teams to provide consultation and promote effective case planning and treatment.
3. Encourage cross-training for public and private professionals who work in the areas of brain injuries, substance abuse, mental health, mental retardation and developmental disabilities, criminal justice, employment services, and vocational rehabilitation services and provide cost analysis for training.
4. Advocate for prevention strategies that include legislation requiring helmet use in open vehicles and a “primary offense” seat belt law.
5. Implement the following recommendations specifically regarding data collection:
 - Conduct prevalence survey; estimate prevalence by region;
 - Develop mandatory statewide injury reporting system;
 - Require risk behavior surveys to include questions on brain injuries;
 - Add questions to federally-required nursing home screening instrument;
 - Require state agencies to conduct research and data collection; and
 - Develop methods to capture data and cost of services from all providers.

6. Implement the following recommendations specifically regarding services for families and caretakers:

- Improve patient education about the effects of acquired brain injuries and the services available to help cope with those effects at hospitals, acute care facilities, and rehabilitation centers;
- Provide a centralized information and referral source for people seeking information about brain injury or related services, such as a “single point of information” similar to the KY CARES network but inclusive of eligibility criteria for existing programs;
- Facilitate workshops for families about legal and financial issues, including guardianship, advance directives, involvement with the legal system, and advocacy;
- Develop mentors to work with families at the time of injury, while the patient is still hospitalized;
- Define the roles and responsibilities of primary and secondary case managers when multiple case managers are involved with families;
- Develop family support groups, modeled from the “Concerned Persons” support group in substance abuse treatment programs; and
- Promote participation of people with brain injuries in the advocacy efforts of groups supporting persons with disabilities, such as coalitions for mental health, substance abuse, and mental retardation and other developmental disabilities.

7. Implement the following recommendations specifically regarding existing services:

- Increase the number of case managers statewide who are aware of brain injury issues and provide information and cost-effective training to all case managers and support staff;
- Enhance case managers involvement with substance abuse treatment programs where appropriate, and educate case managers on services and resources in addition to the Traumatic Brain Injury Trust Fund;
- Update the resource guide for case managers, advocates, and referral sources and make it available electronically;
- Conduct a detailed review of program rules to identify and amend policies and procedures that prevent or inhibit access to services;
- Develop a cadre of consultants or program specialists to provide easily accessible consultation to providers working with individuals with brain injuries;
- Develop education and “best practices” training that includes early intervention efforts for all service and government agencies and organizations involved with individuals with brain injuries to improve service delivery and promote collaboration among service agencies;
- Maximize the use of existing crisis stabilization units and provide training and clinical support for staff of crisis units;

- Provide training and education for employers on issues relating to individuals with brain injuries, including how employment income affects disability and health care benefits;
- Provide education and training on brain injuries to the Kentucky Association on Higher Education and Disability.

8. Implement the following recommendations specifically regarding service needs:

- Create the necessary “safety net” of specialized services and provide training and clinical support for staff working with for individuals with brain injuries;
- Develop mobile assertive community treatment teams that provide intensive oversight and case management;
- Develop inpatient units in facilities that could receive Medicaid reimbursement for neuropsychological evaluation, medication evaluation, health evaluation, speech and occupational therapy, counseling, and substance abuse treatment in a structured health care facility (for one to six months) that includes facility-based case management services, discharge planning, and family follow up;
- Provide temporary placements (one month or less) that provide safety in the community rather than in institutions with specially trained staff for evaluation, service planning, and follow up services;
- Develop a brain injury screening tool for non-mental health professionals in the criminal justice system and other service systems to help identify when specific expertise or intervention is necessary;
- Assure that individuals with brain injuries are included in the Criminal Justice/Mental Health Interface Workgroup of the 843 Commission;
- Increase vocational and educational opportunities for individuals with acquired brain injuries by increasing the number of supported employment providers;
- Develop employment networks to implement the Ticket to Work program; and
- Support efforts to establish a Medicaid Buy-In program for Kentucky.

**REPORT OF THE 2002
TASK FORCE ON
THE LEXINGTON/BIG SANDY RAIL TRAIL**

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

Ray Bailey	Alice Joy Binion
Sen. Charlie Borders	James Codell
Bradley Collins	Dodd Dixon
Drew Graham	Paris Hopkins
Jody Lassiter	Ann Latta
Pam Miller	David Morgan
Sen. R.J. Palmer II	Bill Scott
Sandy Shafer	Gayle Smith
Rep. John Will Stacy	Gene Strong
Clyde Thomas	Rep. John Vincent
George Waggoner III	Gary Williamson
B. D. Wilson, Jr.	

LRC STAFF: Laura Taylor, Cynthia Galvin, and Cecilia Perry

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

TASK FORCE ON THE LEXINGTON/BIG SANDY RAIL TRAIL

JURISDICTION: 2002 Senate Concurrent Resolution 92 created a task force to examine the development of the Lexington/Big Sandy Rail Trail and suggest a strategy for its completion. The trail completion strategy is to include:

1. Solutions for overcoming barriers to trail development;
2. Potential funding sources to complete the trail;
3. Projected date for completion of the trail;
4. Recommendations on entities best suited to implement the trail completion strategy; and
5. Recommendations on entities best suited to administer the trail, in both the short and long term.

TASK FORCE ACTIVITY

Chartered in 1869, the Elizabethtown, Lexington and Big Sandy Railroad was operated by the Chesapeake and Ohio Railway Company (C&O), later to become CSX, and connected the communities of Lexington, Winchester, Mount Sterling, Salt Lick, Morehead, Olive Hill, and Ashland. The railroad was abandoned in 1985. Although its condition varies, most of the line remains and stretches 109 miles from Lexington to Coalton, just outside of Ashland. The corridor runs through the counties of Fayette, Clark, Montgomery, Bath, Rowan, Carter, and Boyd. Although certain sections of the Lexington/Big Sandy Rail Trail are in the planning phases, most of the trail remains undeveloped.

The Task Force on the Lexington/Big Sandy Rail Trail has not met, but anticipates doing so before the end of the 2002 Interim. Potential issues for future meetings include the coordination and funding of:

1. Railway ownership and acquisition;
2. Trail planning, design, and construction; and
3. Ongoing trail operation, maintenance, and rule enforcement.

**REPORT OF THE 2002
TASK FORCE ON FUNDING FOR WILDLIFE CONSERVATION**

**Sen. Charlie Borders, Co-Chair
Rep. Royce Adams, Co-Chair**

Roland Beers
Mike Boatwright
Frank Elsen
Rep. Dennis Horlander
Sen. Joey Pendleton
Rep. Charles Siler
Rep. Rob Wilkey

Joe Bland
Taylor Davidson
Bill Hintz
Phil Hulsman
Stephanie Robey
Marcheta Sparrow
Steve Woodring

LRC STAFF: D. Todd Littlefield and Sheri Mahan

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
2003 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

TASK FORCE ON FUNDING FOR WILDLIFE CONSERVATION

JURISDICTION: The Department of Fish and Wildlife Resources does not receive General Fund dollars but has historically been supported by license fees and a portion of federal taxes on sporting goods. A steady decline in the numbers of hunters and fishermen has been a matter of great concern to the department. The 1996 General Assembly enacted House Concurrent Resolution 76 (HCR 76) to address funding for wildlife conservation.

The Task Force on Funding for Wildlife Conservation was created pursuant to this legislation and has been reauthorized by the 1998, 2000, and 2002 General Assemblies, most recently in HCR 125

TASK FORCE ACTIVITY

At the task force's 2002 meeting, the commissioner of the Department of Fish and Wildlife Resources reviewed the task force's 1997 report and the department's plans for the future.

The commissioner noted that some of the recommendations of the task force's 1997 report have been met but that work remained to be done. Erosion of the fund base provided by license sales has been slowed by the creation of the five-dollar senior and disabled license. He also pointed out that Kentuckians use and enjoy the outdoors in greater numbers than the national average and that outdoor recreation is a strong contributor to tourism, the number three industry in the Commonwealth.

The primary recommendation of the 1997 report that remains unmet is that of finding a way for all Kentuckians to help pay for fish and wildlife conservation. Strategies being implemented by other states were discussed including a percentage of sales tax, income tax checkoff, lottery, severance taxes, registration of out-of-state boaters and off-road vehicles, and dedication of environmental fines among others.

The department budget director then outlined current revenue sources and where that revenue is being expended. In the future, as revenue becomes flat and expenditures continue to rise, the rapid elimination of the fund balance is a great danger. A number of ideas for revenue generation and other areas for possible legislative action were discussed. Among these were the following:

- Seek amendment to KRS 45A.100 to allow pass-through of federal funds to landowners for projects such as habitat enhancement. Current law limits such expenditures to \$1000 before procurement requirements must be met.
- Investigate whether a portion of U.S. Forest Service timber sales could be obtained for department purposes.

- Seek to improve small game populations (quail & rabbits) in an effort to improve hunting license sales and opportunity.
- Assess a fee on out-of-state boats moored on or utilizing Kentucky waters.
- Look at “habitat impact fees,” requiring all users of Wildlife Management Areas to pay a fee.
- Seek more financial support from Bass Tournaments.
- Be prepared to mobilize legislative support in the event that broad-scale tax reform should move forward, presenting an opportunity for inclusion of DFWR
- Seek a portion of court costs assessed against violators of hunting, fishing and boating laws.

Surveys conducted in recent years have shown that the public overwhelmingly favors the idea that all citizens should share the responsibility of paying for wildlife conservation. Because habitat and species restoration are lengthy processes, the Department and the task force agree that a long-term plan for reliable, stable funding for wildlife conservation is very important.