

**FINAL REPORTS OF THE INTERIM
JOINT, SPECIAL, AND STATUTORY
COMMITTEES
1992-1993**

Informational Bulletin No. 187

Legislative Research Commission
Frankfort, Kentucky
December, 1993

**FINAL REPORTS OF THE INTERIM
JOINT, SPECIAL, AND STATUTORY
COMMITTEES
1992-1993**

**Presented to the
Legislative Research Commission
and the
1994 Kentucky General Assembly**

Edited by
Charles Bush

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FOREWORD

The Kentucky Constitution limits the meeting of the General Assembly to sixty legislative days in even-numbered years and to a ten-day organizational session in odd-numbered years. Prior to 1968, there was no activity during the interim period between sessions. The 1970s brought great changes in the legislative setting in Kentucky. The activity of legislative committees has steadily increased during each succeeding interim.

With the implementation of the constitutional amendment approved in 1979, the interim activity takes on added significance. This amendment, frequently called the Kenton amendment, changes the election year for legislators from odd- to even-numbered years. Consequently, a legislator serves one year of the term in interim activity before a regular session of the General Assembly is held. With the phased-in implementation of the amendment, the 1984-85 interim marked the first time legislators were elected in even-numbered years and were afforded the opportunity to become familiar with issues and procedures prior to the Regular Session.

During the 1992 interim, the Legislative Research Commission authorized the formation of sixteen interim joint committees. In addition, six special committees were established to address particular issues during the interim. Five committees of the General Assembly and the Legislative Research Commission are authorized by statutes: the Administrative Regulation Review Subcommittee, the Capital Planning Advisory Board, the Capital Projects and Bonds Oversight Committee, the Personal Service Contract Review Subcommittee, and the Program Review and Investigation Committee.

The Legislative Research Commission provides this informational booklet as a summary of the activity of interim joint, special, and statutory committees since adjournment of the 1992 General Assembly, with the exception of activities of the extraordinary sessions held in 1993. The reports were prepared separately by the committee staff and were compiled and edited by Charles Bush, Research Editor.

Vic Hellard, Jr.
Director

The Capitol
Frankfort, Kentucky
December, 1993

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**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE ON
AGRICULTURE AND NATURAL RESOURCES**

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Rep. Rex Smith
Sen. Tom Smith
Rep. Richard Turner

LRC STAFF: Brooks H. Talley, Daniel J. Risch, Andrew Cammack, Mary Lynn Collins, Jeff Kell, Gerard Donovan, and Diana Lynn Hill

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

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Rep. Donald Farley
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Rep. Bill Lile
Rep. Harry Moberly, Jr.
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Sen. Tom Smith

SUBCOMMITTEE ON NATURAL RESOURCES

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Rep. Tom Jensen
Sen. David LeMaster
Rep. Charles Nelson

SUBCOMMITTEE ON SMALL BUSINESS

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Rep. Jim Maggard
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Rep. Jon David Reinhardt
Rep. Walter Gee
Rep. Richard Sanders, Jr.
Rep. Donna Shacklette
Rep. Billy Ray Smith

Sen. Rick Rand, Ex-Officio
Rep. Herbie Deskins, Jr., Ex-Officio

INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

COMMITTEE 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; the 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; drainage districts and local flood control and water usage; 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 15 times during the 1992-93 legislative interim as of November 30, 1993. Two of these meetings were held outside of Frankfort: one at the State Fairgrounds with the members of the State Fair Board, the other a three-day meeting in eastern Kentucky. The Committee's four subcommittees met 25 times during that period, making a total of 40 meetings during the interim.

The Committee's activities have addressed such diverse subjects as the collection of unused agricultural chemicals, milk marketing, forestry, groundwater protection, solid waste management, surface coal mining, and state administrative regulations.

Solid Waste

The Natural Resources and Environmental Protection Cabinet reported twice on solid waste during the interim. Senate Bill 2 of the first extraordinary session in 1991 requires the Natural Resources and Environmental Protection Cabinet to report to the General Assembly on the management of solid waste in the state by July 1 of each year. The cabinet reported that all substandard solid waste landfills had been closed, and that the landfill capacity of the 30 operating municipal solid waste landfills is sufficient to dispose of the state's waste for about 15 years.

The Kentucky Recycling Brokerage Authority reported twice on solid waste during the interim, fulfilling the requirement of Senate Bill 2 to report to the General Assembly by July 1 of each year. The authority has the responsibility to assist local governments in obtaining reliable markets for their recyclable materials. The authority concluded contract agreements with 16 processors of recyclable materials and found markets for old newsprint, old corrugated cardboard, mixed office waste paper, aluminum beverage containers, and glass containers. The following are the five primary conclusions of the authority's 1993 report. First, buyers exist for postconsumer recyclable materials. Second, the economic realities render the cost effectiveness of recycling for rural areas a very harsh blow. Third, regionalization and the development of physical processing infrastructure are essential. Fourth, the development of additional markets is essential. Fifth,

additional staff and resources are imperative if the authority is to provide adequate education and training for local recycling efforts and promote the development of new markets for recyclables.

The Committee was interested in the impact of the federal bankruptcy court order concerning Cooksey Brothers landfill. The judge's order would allow solid waste from the northeastern part of the country to continue to be deposited in Cooksey Brothers landfill, and would allow the operator of the landfill to post financial assurance on a monthly basis, rather than an annual basis as required of landfill operations not in bankruptcy. The cabinet appealed the bankruptcy judge's order. The cabinet's concern was the potential impact which this court order might have on future bankruptcies, especially the possibility that companies might be able to avoid state environmental requirements. The cabinet maintains that the federal bankruptcy law requires a company in bankruptcy to abide by all other federal and state laws. As long as the waste stream is consistent with the local solid waste plan, the cabinet has no authority to object and cannot keep out-of-state waste from coming into Kentucky.

A representative of the national, non-profit environmental organization INFORM spoke about the importance of the reduction of solid waste at its source. The federal Environmental Protection Agency ranks the reduction of solid waste at its source as the top priority in the hierarchy of the management of solid waste.

Environment

Environmental issues were discussed at several meetings. The state Environmental Quality Commission discussed its first comprehensive report on Kentucky's environment, *State of Kentucky's Environment: A Report of Progress and Problems*. This report is acknowledged as the first comprehensive environmental assessment of the state. The report discusses the successes in cleaning up the environment, as well as the areas in which more progress needs to be made in protecting the environment.

The Natural Resources and Environmental Protection Cabinet presented the fifth biennial "Report on the Status of Kentucky's Environment" to the committee. The cabinet has more than 15,000 active permits, and will continue to improve the efficiency of the permit issuance process. Hazardous waste generation decreased from 6.3 million tons in 1990 to 4.2 million tons in 1991. In 1992, 1,800 underground petroleum storage tanks were closed and contamination at those sites cleaned up. There was a one-third decrease in the number of forestland acres burned in 1992 (compared to 1991). In 1992 there were agricultural districts in 44 counties. Finally, there are 1,230 forest stewardship plans in place to manage nearly 112,000 acres of forestland. Kentucky leads the nation in the forest stewardship program.

The Natural Resources and Environmental Protection Cabinet reported on the implementation of House Bill 540 of the 1992 regular session, which concerns the reporting of releases of hazardous substances and their appropriate cleanup. The cabinet contracted with the University of Kentucky Water Resources Research Institute for the development of standards for cleanup, and the cabinet is writing administrative regulations to implement House Bill 540.

The Committee received a presentation on the Westvaco Wildlife Management Area. The Westvaco Wildlife Management Area, located in far western Kentucky, results from a partnership between the business interests of Westvaco Corporation and the wildlife management interests of the Department of Fish and Wildlife Resources. The wildlife management area was created in June 1991 with the signing of a twenty-year agreement between Westvaco and the Department of Fish and Wildlife Resources. The goal of the agreement is to create habitat that will attract ducks, especially mallards, that migrate along the Mississippi Flyway. Last year the area attracted 10,000 birds. Ultimately planners hope to see waterfowl populations in the area exceed 50,000. Management techniques include the use of controlled flooding of lowlands and the growth of food crops and natural waterfowl food plants, interspersed with hardwood trees. The project uses local contractors and farmers for construction throughout the management area, and provides hunting, fishing, and other outdoor recreational activities for the general public.

Agriculture

Two reports on "Ag. Project 2000" were presented to the Committee. The first report generally explained the project, and the second report was a review of the project and a brief discussion of related legislative proposals which might come before the 1994 regular session. Ag. Project 2000 is a coordinated effort by 14 agricultural commodity groups to increase the state's agricultural income from \$3.1 billion to \$5 billion by the year 2000. Eight task forces have been created to bring this goal into reality, and more than 100 counties have a local Ag. Project 2000 committee working on the project. The project is assisted by farm organizations, universities, and state government. The project will benefit the rural areas of the state by increasing employment through the location of value-added industries using Kentucky-grown agricultural commodities. It is estimated that 25,000 to 30,000 new jobs would be created. The \$5 billion annual farm income would multiply throughout the state's economy, resulting in additional income of \$20 billion to \$25 billion annually.

The Committee discussed the Governor's policy on smoking on state property and received a report on environmental smoke from the Tobacco and Health Research Institute.

The Committee received a report on the amnesty program for the collection of unused agricultural chemicals in Caldwell and Marshall counties. The high cost of this program was emphasized. It was recommended to the Committee that a farmer be allowed to reuse legal chemicals, that the state establish a repository for dangerous chemicals, and that the state secure a mobile laboratory. Senate Bill 370 of the 1992 regular session directs the Natural Resources and Environmental Protection Cabinet to implement a statewide comprehensive program for the collection and disposal of agricultural chemicals and their containers.

The Committee met with the members of the State Fair Board at the State Fairgrounds during the 1992 State Fair. This was the seventh time the committee had met with the State Fair Board during the State Fair. The members heard a discussion of the plan to expand the new South Wing by adding an additional 135,000 square feet of exhibit space.

Eastern Kentucky Visit

The Committee considered a variety of issues during its three-day meeting in October, 1992 in eastern Kentucky. The members visited a recycling center, a municipal solid waste contained landfill, and a mountaintop removal surface coal mining operation undergoing reclamation to accommodate an agricultural complex, including chicken egg-laying, hog feeding, and beef cattle operations. The members also heard a discussion of oil and gas drilling practices and the need to protect land and water. Legislation on this subject is expected in the 1994 regular session.

Administrative Regulations

The Committee received 220 administrative regulations. Nine of these administrative regulations will be considered at the committee's November 29, 1993, meeting. Of the 211 administrative regulations already considered by the committee, 189 were determined to comply with KRS Chapter 13A, 14 were discussed without action being taken, and eight became effective because of the lack of a quorum. These administrative regulations related to a diverse variety of subjects, such as bungee jumping, tobacco seedlings, seeds, fish and wildlife, surface coal mining, deep coal mining, hazardous waste, special waste, underground petroleum storage tanks, and air quality. Administrative regulations relating to the protection of groundwater and the Kentucky River may be received by the committee in December 1993.

Reports

Senate Concurrent Resolution 106 of the 1992 regular session directed the Committee to conduct a study of the ways to stabilize milk prices paid to Kentucky dairy producers and of the ways to reduce the financial risk to the state's dairy producers when milk buyers are insolvent. The Committee assigned this study to the Subcommittee on Agriculture. The Subcommittee completed its study after four meetings and made no recommendations based upon the testimony it received. The full committee adopted the report at its September 1993 meeting and forwarded the report, Research Memorandum No. 466, to the Legislative Research Commission.

The Committee received a preliminary report, being conducted by the U.K. College of Agriculture, on the effects of agricultural practices on groundwater, as directed by Senate Bill 271 of the 1990 regular session.

Legislative Proposals Received From State Agencies

The Committee requested legislative proposals for the 1994 regular session from state agencies with programs under the jurisdiction of the committee. This has been a standard procedure of the Committee since the interim joint committee system began in 1968. The Committee received 15 legislative proposals in bill form, 14 from the Department of Mines and Minerals and one from the U.K. College of Agriculture. These bills were discussed at the committee's October 27, 1993, meeting, but no official action was taken on them. The secretary of the Natural Resources and Environmental Protection Cabinet discussed issues which the cabinet intends to present in legislative bills to the 1994 regular session.

Reorganization Plan Concurrence

The Committee reported to the Legislative Research Commission that it concurred in the following reorganization plans issued by the Governor:

- 92-1049 and 92-1164, creating the Geographic Information Advisory Council;
- 92-1060, increasing the membership of the State Board of Agriculture; and
- 93-721, reestablishing the Office of Administrative Hearings in the Natural Resources and Environmental Protection Cabinet.

The Committee reported to the Legislative Research Commission that it concurred in the following reorganization plans issued by the Commissioner of Agriculture:

- 92-001, relating to the organization of the Department of Agriculture; and
- 92-01E, relating to the organization of the Department of Agriculture.

Early in the interim, the Committee considered Executive Order 92-510, which established the Office of Administrative Hearings and abolished the Division of Hearings in the Natural Resources and Environmental Protection Cabinet, and substituted permanent full-time attorneys for part-time attorneys, in an effort to expedite decisions in administrative hearings. After discussing this executive order, the Committee reported to the Legislative Research Commission that the executive order had been "presented to the committee." The Committee did concur in the reorganization plan for Executive Order 93-721, which reestablished the Office of Administrative Hearings, as noted above.

Prefiled Bill Referred by the Legislative Research Commission

The following prefiled bill for the 1994 regular session was referred by the Legislative Research Commission to the committee, which did not consider the bill: 94 RS BR 136, repealing the Tobacco Labor Fund.

Resolutions

The Committee adopted a resolution in honor and loving memory of former state Senator Tom Harris, the first chair of this committee, for his unselfish and outstanding service to the committee and the General Assembly.

The Committee adopted a resolution in support of the concept of establishing a farmers' market in northern Kentucky.

Subcommittee on Agriculture

The Subcommittee met eight times during this interim as of October 31, 1993.

The Subcommittee devoted more time to the milk study directed by Senate Concurrent Resolution 106 of the 1992 regular session than to any other subject. Senate Concurrent Resolution 106 directed the full committee to conduct the study. The study was assigned to the Subcommittee because of its jurisdiction, but the discussion of this study appears under "Reports" of the full "Committee Activity."

There is much interest in supplementing Kentucky farmers' income. Two organizations and one delegation presented their ideas to accomplish this. A representative of the Kentucky Ratite Association discussed the benefits to farmers of raising ostriches and emus. A pair of adult ratite breeders sells for from \$40,000 to \$65,000. As a food product, a 14-to 16-months-old ratite sells for about \$900. To encourage the raising of ratites, the association desires to have state laws classifying ratites as livestock, requiring the state veterinarian to control ratite diseases, and imposing stiffer penalties for stealing or injuring ratites.

A representative of the Kentucky Aquaculture Association said that fish farming is a good way for some farmers to increase their income. He pointed out that aquaculture is the fastest growing agricultural industry in the United States. Kentucky farmers, he suggested, should produce part of the 95 percent of the fish Kentuckians eat but which is produced outside of Kentucky. Kentucky State University provides technical support to fish farmers. The representative of the association presented several legislative proposals for the 1994 regular session.

A delegation from northern Kentucky and the Commissioner of Agriculture advocated the establishment of a farmers' market in northern Kentucky. They maintained a farmers' market would provide supplemental income to many of Kentucky's farmers. The population density (1.4 million to 1.6 million people living in the area) and the excellent road system would provide an opportunity to sell Kentucky-produced fruits and vegetables. A crucial factor is the provision of funding to establish the farmers' market. The Subcommittee recommended to the full committee adoption of a resolution in support of the concept of establishing a farmers' market in northern Kentucky. The full committee adopted this resolution.

The Subcommittee considered the certification of tobacco seedlings at two meetings. House Bill 541, enacted in the 1992 regular session, required that all tobacco seedlings be certified before being sold in Kentucky. The certification is for varietal purity and not for disease control. But dissatisfaction existed when the Kentucky Seed Improvement Association began enforcing a program to ensure certification. Eventually, 13 administrative regulations relating to seeds and tobacco seedlings were found deficient by the Administrative Regulation Review Subcommittee.

The Subcommittee members toured the University of Kentucky's new agricultural research farm, the Pin Oak farm in Woodford County. A major portion of this farm will be devoted to livestock. Development plans envision a center for research and education, 500 acres for beef

cattle, 400 acres for crops, 150 acres for sheep, 60 acres for dairy, and other areas for swine, poultry, and horses. The timing of this development will depend upon the availability of financing.

Other issues discussed by the Subcommittee were enforcement of the state's weights and measures statutes; cold checks received by stockyard owners in payment for livestock; small animal control; soybean checkoff; the policy of the federal Agricultural Stabilization and Conservation Service on controlling Johnson grass, nodding thistle, and multiflora rose on farmland, as part of the Conservation Reserve Program; and probable legislative proposals of the Department of Agriculture for the 1994 regular session.

The Subcommittee considered 19 administrative regulations and two Executive Orders relating to reorganization.

Subcommittee on Environment

The Subcommittee met six times as of November 30, 1993.

A theme of this interim has been to review the state laws which have the goal of encouraging markets for recycled materials.

An early meeting reviewed the efforts of the Kentucky Press Association promoting the use of recycled newsprint by newspapers in Kentucky. The association representative stated his belief that a voluntary agreement among newspaper publishers to increase usage of recycled newsprint goes as far as, if not further than, any voluntary agreement or the legislation in a number of states.

The Subcommittee reviewed the state waste tire disposal law. This law also attempts to build markets for materials diverted from disposal toward new, productive use.

The report of the Natural Resources and Environmental Protection Cabinet to the Subcommittee described the law as disappointing in effectiveness and needing improvement. For example, it was pointed out that the waste tire fee has not raised enough money to pay for the cleanup of old waste tire piles or to entice the startup of business ventures that would make new products from discarded tires.

The final recycling subject was the state tax credit intended to encourage the purchase of recycling equipment. A representative of the Revenue Cabinet indicated that the law is having success. In 1991, tax credits totaling \$17.3 million were approved for 64 applicants. In 1992, tax credits were \$2.8 million for 78 applicants. Nine million dollars in credits for 36 applicants is pending for 1993.

Another topic brought to the subcommittee's attention related to the Central Midwest Interstate Low-Level Radioactive Waste Compact. Illinois, the only other compact member, recently made changes to the compact. A motion was adopted by the Subcommittee supporting an executive order by the Governor to make the changes effective in Kentucky.

Another topic related to the Petroleum Storage Tank Environmental Assurance Fund Commission. As the underground petroleum storage tank program has become more efficient, the fund which helps to pay for cleaning up leaking tanks is rapidly being depleted. The commission reported that soon it would be drafting administrative regulations that may help control the costs of tank cleanups. One administrative regulation would require contractors to be certified and the other would limit the costs of remediation that could be met by the fund. Finally, the suggestion was made that during the next legislative session the commission may request the authority to raise cleanup money by issuing bonds or by increasing the fee on gasoline.

Late in the interim the Subcommittee received a report on sinkholes presented by students of a Midway, Kentucky, school. The general conclusion of their report was that 90 percent of the sinkholes they visited are polluted, thus endangering drinking water resources. Also, the subcommittee reviewed state efforts to develop a program to reduce polluting emissions from mobile sources.

The Subcommittee reviewed 55 administrative regulations.

Subcommittee on Natural Resources

The Subcommittee met five times as of November 30, 1993. Two of the subcommittee meetings dealt only with administrative regulations. The subcommittee considered 10 administrative regulations during the interim. They included regulations on mines and minerals, fish and wildlife, and surface coal mining.

At the Subcommittee's first meeting, in July 1993, the subcommittee reviewed the state's surface coal mining primacy program. Department for Surface Mining Reclamation and Enforcement representatives addressed primacy, abandoned mine lands, re-mining, and related issues. Concern was expressed that the state did not receive enough Abandoned Mine Lands (AML) funds back from the federal government. The state's coal operators have paid \$544 million in AML fees and only \$354 million has been returned to or spent on the state. The main reason more money has not been returned is that Congress will not appropriate it. Department officials stated that the state needs far more funds to address the state's abandoned mine land problem.

Re-mining the disturbed area is another way to correct environmental problems resulting from abandoned coal mines. The state has had little success in obtaining federal approval of a re-mining program. Department officials said recent changes in federal law, such as a provision that would relieve a permittee from permit blocking for a violation resulting from an unanticipated event, might encourage re-mining. Later in the year, the department promulgated administrative regulations and proposed changes in KRS Chapter 350 to reflect the new federal re-mining provisions.

Department officials also discussed a study on the adequacy of Kentucky's surface coal mining bonding. The study concluded that the problem of inadequacy of bonds to cover reclamation was not as severe as some have suggested. It found that some adjustments are needed and made recommendations.

Several coal associations were invited to address primacy. Generally they felt that the Department for Surface Mining Reclamation and Enforcement was doing a good job, but that some improvements could be made in administration of the program. They felt the federal Office of Surface Mining (OSM) oversight was excessive. Several industry representatives felt that the dual regulatory system by OSM and the state adversely affects the coal industry and the overall economy of the state. Concerns were expressed regarding OSM's applicant violator system, lack of an effective reining program, and chronic citizen complainers. An industry representative said that although he was concerned about what OSM's regulatory attitude might be in the next few years, he did not favor giving up primacy.

At the August meeting, the Subcommittee heard a discussion of reclamation and other regulatory programs for oil and gas drilling operations, including improvements that might be made. Oil and gas legislation, including reclamation, was taken up in the 1992 regular session and is expected to again be considered in 1994. At this meeting, Kentucky Oil and Gas Association representatives said that they support reasonable regulation of the industry and acknowledged that some additional regulation to ensure reclamation might be needed.

The director of the Division of Oil and Gas said that the division has drafted a bill to require reclamation of oil and gas drilling sites. The division also has bill drafts covering production reporting and other areas.

Another speaker addressed the need for legislation on reclamation and landowner's rights. He noted that coal operators comply with stringent bonding and reclamation standards, and suggested that the same standards should be applied to oil and gas. He also held that the landowner's consent should be required for oil and gas operators to enter his property. All parties were urged to get together to try to arrive at a legislative proposal that embodies the various concerns and achieves consensus before the 1994 regular session.

The Subcommittee plans to further discuss oil and gas legislation at its November meeting.

Subcommittee on Small Business

The Subcommittee on Small Business held six meetings during the 1992-93 interim as of November 30, 1993. Those meetings included discussion of small business development programs; the Kentucky Agricultural Finance Corporation Operating Loan Program; small business development bills introduced in previous sessions; competition between university and private small business enterprises; the 1990 Clean Air Act Amendments, the Title V Operating Permit Program; and proposals to locate the Kentucky Small Business Technical Assistance Program.

The Subcommittee held its first meeting April 28, 1993. Representatives from the Cabinet for Economic Development discussed the role of the Department of Community Development in assisting Kentucky communities in becoming more competitive in a diverse economy. Cabinet representatives also discussed various programs within the Department that serve specific needs of existing businesses. Also, a representative from the Finance and Administration Cabinet briefly

discussed the Kentucky Agricultural Finance Corporation Operating Loan Program, created during the 1990 regular session.

At its second meeting, July 21, 1993, the Subcommittee was to discuss a series of bills related to small business development introduced in previous sessions. However, since the sponsor could not be present to discuss the bills, the Subcommittee deferred them to a later date.

During the third meeting, held August 25, 1993, discussion was heard of competition between university and private small business enterprises. Representatives from the state's eight universities were present, as well as a representative of the Kentucky Chamber of Commerce and the owner of a private fitness center in Bowling Green. An employee of the Council on Higher Education discussed events leading up to the discovery in 1988 by the Task Force on Small Business that there were no laws governing university enterprise competition with small business. As a result, the universities adopted policies regarding the operation of businesses on campus and set up grievance procedures to address concerns and objections. Officials from the universities discussed their institutions' efforts to keep communication lines open between the university and local businesses, enhance the local climate for small business growth and economic development, and to provide an avenue of addressing complaints of unfair competition between university enterprises and local businesses.

The owner of a private fitness center in Bowling Green expressed his concerns about unfair competition between his business and Preston Center, the athletics center at Western Kentucky University. He described the situation, and said he had contacted university officials to resolve the issue. Although discussions were friendly, the problem remained unresolved. After university representatives responded to the allegations, the Subcommittee urged both parties to work together to resolve the matter in a way that will benefit both the private business and the university.

The fourth meeting, held September 22, 1993, centered on the 1990 Clean Air Act Amendments, Title V Operating Permit Program. A representative of the Division for Air Quality, Natural Resources and Environmental Protection Cabinet, said Kentucky is very actively involved in working to implement the requirements of the Clean Air Act. He then discussed the requirements of the state implementation plan regarding mandatory reductions in emissions of volatile organic compounds.

The representative remarked that the Clean Air Act Amendments may affect small businesses more than they did previously because of changes in addressing toxic and hazardous air pollution. However, in recognizing this, the law requires that each state receiving approval for the operating permit program have a small business technical assistance program to assist small businesses in complying with the requirements and in submitting acceptable permits to the permitting authority.

A representative of the Ombudsman's Office in the Natural Resources and Environmental Protection Cabinet discussed the Kentucky Small Business Technical Assistance Program and the Title V Operating Permit Program regulations in more detail. She commented that one of the primary questions still to be answered is in which state agency to locate the technical assistance

program. Options discussed so far include the University of Kentucky community college system, the University of Louisville Small Business Development Center, and the Cabinet for Economic Development's Business Information Clearinghouse.

Another meeting, held October 28, 1993, focused on proposals on where to locate the Clean Air Act mandated state Small Business Technical Assistance Program. Proposals received from the Business Information Clearinghouse, the University of Louisville, and the Small Business Development Center at the University of Kentucky were explained by their respective representatives. Following presentation of all proposals, budgeting and staffing questions arose. A meeting was scheduled for November 29 to continue deliberations on the issue.

**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE ON
APPROPRIATIONS AND REVENUE**

**Senator Michael R. Moloney, Co-Chair
Representative Marshall Long, Co-Chair**

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Sen. Benny Ray Bailey
Sen. Walter Baker
Rep. Joe Barrows
Rep. Russell Bentley
Sen. Charles Berger
Sen. Walter Blevins
Rep. Mark Brown
Rep. Jim Callahan
Rep. Larry Clark
Rep. Danny Ford
Rep. Charles Geveden
Rep. Leonard Gray
Rep. Hank Hancock
Rep. Ken Harper
Rep. Bob Heleringer
Sen. Nick Kafoglis

Sen. Dan Kelly
Rep. Jim LeMaster
Rep. Paul Mason
Rep. Harry Moberly
Sen. Gerald Neal
Rep. Clarence Noland
Rep. Anne Northup
Rep. Ruth Ann Palumbo
Sen. Joey Pendleton
Rep. Kenny Rapier
Sen. Dick Roeding
Sen. Larry Saunders
Rep. Ernesto Scorsone
Rep. Richard Turner
Rep. Mike Ward
Rep. Pete Worthington

LRC STAFF: Terry K. Jones, Pamela Lester, and Katherine King

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

Subcommittees on Legislative Budget Review and Oversight

The Interim Joint Committee on Appropriations and Revenue has been organized into six budget review Subcommittees. Their purpose has been to review revisions to the enacted 1992-94 Budget, and monitor the budgetary operations and programs of state government, as well as analyze agency budget needs for the 1994-96 biennium.

The Subcommittee members and primary staff assignments are as follows:

<u>Budget Area</u>	<u>Subcommittee Members</u>	<u>Staff Members</u>
Economic Development, Natural Resources and Tourism	Sen. Larry Saunders, Co-Chair Rep. Russell Bentley, Co-Chair Rep. Larry Clark Rep. Ken Harper Rep. Jim Callahan Sen. Fred Bradley Rep. Jack Coleman Rep. Rocky Adkins	Nancy Osborne Doug Teague Fonda Snyder, Secretary
Education	Sen. Nick Kafoglis, Co-Chair Rep. Harry Moberly, Co-Chair Rep. Ruth Ann Palumbo Rep. Kenny Rapier Rep. Anne Northup Sen. Ed Ford Rep. Jody Richards Rep. Tom Kerr Rep. Dave Hourigan	Charles Shirley Tom Willis Susan Dance, Secretary
General Government, Finance and Public Protection	Sen. Gerald Neal, Co-Chair Rep. Joe Barrows, Co-Chair Rep. Jim LeMaster Rep. Richard Turner Rep. Mark Brown Sen. Joseph U. Meyer Rep. Mark Farrow Rep. Charles Nelson Rep. Jim Wayne	Tim Lowry Jim Works Karen Hilborn Pat Aldridge, Secretary

Human Resources

Sen. Benny Ray Bailey, Co-Chair John Cosby
Rep. Paul Mason, Co-Chair Wanda Meeks
Rep. Clarence Noland Fonda Snyder, Secretary
Rep. Leonard Gray
Rep. Bob Heleringer
Rep. Tom Burch, Ex-Officio
Sen. Henry Lackey
Rep. Bill Lear
Rep. Paul Clark
Rep. Stephen Nunn

Justice, Corrections and
Judiciary

Sen. Charlie Berger, Co-Chair Jerry Bailey
Rep. Ernesto Scorsone, Co-Chair Steve Mason
Rep. Charles Geveden Pat Aldridge, Secretary
Sen. Kelsey Friend
Rep. Adrian K. Arnold
Rep. Jon Ackerson
Rep. Louis Johnson
Rep. Richard Lewis

Transportation

Sen. Joey Pendleton, Co-Chair Steve Mason
Rep. Hank Hancock, Co-Chair Susan Dance, Secretary
Rep. Pete Worthington
Rep. Mike Ward
Rep. Danny Ford
Rep. Clayton Little, Ex-Officio
Sen. Kim Nelson
Rep. Ron Cyrus
Rep. Jim Maggard
Rep. Dorsey Ridley

Ex-Officio Members:

Sen. Michael Moloney
Rep. Marshall Long

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

COMMITTEE 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

The Interim Joint Committee on Appropriations and Revenue has met 12 times during the 1992-93 legislative interim, as of October, 28 1993, and has been permitted by the Legislative Research Commission to meet in November to review the Revenue Cabinet's legislative proposals for the 1994 Regular Session.

The Committee receives the following monthly reports: (1) General Fund Revenue Receipts; (2) Kentucky Lottery Report; (3) State Audits Conducted; (4) Personal Service Contracts; (5) Agency Employee Status Summary; (6) Department of Personnel Budgeted Positions; (7) Permanent Full-Time Employees; (8) Local School District Bond Issues; and (9) Interim Budget Adjustments.

At its first interim meeting, in August 1992, the Committee discussed the Finance and Administration Cabinet's use of withholding income tax refunds as a budget balancing tool. A payment of approximately \$106 million in income tax refunds was delayed until fiscal year 1992-93, in an effort to balance the state budget at the close of the 1991-92 fiscal year. The Cabinet chose a delay of refunds, rather than implementation of a budget reduction plan, because it believed that the state had an excellent chance of meeting its revenue goals for the fiscal year. To determine whether cutbacks will be necessary for fiscal year 1992-93, the Cabinet indicates that it will be necessary to analyze receipts from the first quarter of the fiscal year. Upon conclusion of its analysis, the Cabinet will determine what, if any, cost savings measures are necessary to deal with any additional shortfall created through the withholding of refunds. The Cabinet's consultant stated that the state would need to generate approximately 6.7 percent of revenue growth during the last 11 months of the fiscal year.

The Committee also received a presentation from its consultant regarding revised revenue estimates for the 1992-94 biennium, and projected a revenue shortfall of \$70.1 million in fiscal year 1993, and \$110.4 million in fiscal year 1994. The figures assumed a carryover of refunds into fiscal year 1994, similar to the carryover into fiscal year 1993. Timely payment of refunds in fiscal year 1993 would increase the shortfall by approximately \$95 million.

The Committee also received an analysis from staff on the current Medicaid budget and funds generated by the Medicaid provider tax. Revenues produced by Kentucky's current provider tax will no longer be available after July 1, 1993. It was also indicated that Kentucky's federal

match rate was lowered from 72.82 percent in fiscal year 1992, to 71.69 percent in fiscal year 1993. This change creates a need for the state to contribute an additional \$16.4 million in 1993, and \$25.2 million in 1994, to make up for the portion of the federal match lost when the rate changed. Two major issues facing the General Assembly regarding the current state Medicaid budget are an underfunding by approximately \$100 million, due to the use of an assumed growth rate of 10 percent, and a revision of the laws governing the provider assessment, which become effective July 1, 1993.

At its second meeting, in September 1992, the Committee heard testimony from the Revenue Cabinet about pending litigation having a potential negative fiscal impact of \$1 million or more on state revenues. The Cabinet also indicated that it will need additional funding in order to properly defend these cases.

The Committee then embarked upon its study of Kentucky's tax system, which was mandated by 1992 House Concurrent Resolution 20. The Committee heard testimony from a Senior Fiscal Analyst with the National Conference of State Legislatures, a member of the Maryland legislature, and a representative of Policy Economics Group, KMPG, Pete Marwick, the former Executive Director of the Minnesota State Tax Study Commission. The three speakers discussed recent tax studies conducted in Maryland, Minnesota, and other states.

During its third meeting, in October 1992, the Committee again discussed revenue estimates for fiscal year 1992-93. Testimony was offered by the Secretary of the Finance and Administration Cabinet informing the Committee that the Executive Branch expects a \$68.6 million shortfall for fiscal year 1992-93. State agency heads were being asked to curb discretionary spending, and to place a hold on 2 percent of their budgets in anticipation of possible cuts. The Secretary said that state aid to local schools had been exempted from these measures.

There was opposition from the Committee to the exclusion of any state agency from budget cutting measures, stating that all agencies should have to share the burden of any cuts. There was also concern that the shortfall will be larger than the estimates prepared by the administration. There was also opposition to across-the-board agency cuts, and support instead for looking at each agency separately. The Committee's revenue consultant testified that the administration's shortfall estimates were far too optimistic. His revenue estimates indicated the budget shortfall for fiscal year 1992-93 would be \$136.6 million.

The Committee also heard from the Department of Education on budgetary implications of the discovery of 5,429 newly identified students not provided for in the budget for the 1992-93 fiscal year. It was indicated that additional fiscal problems have arisen for schools because property assessments were lower than expected.

The Committee also took up the issue of the income taxation of private and federal pensioners. The Revenue Cabinet presented an update of two pension refund cases the state is currently defending. It was stated that adverse decisions in both cases could result in refunds of between \$50 and \$125 million for each of the past three years, and lost future revenues of \$50 to \$150 million.

The Committee received an update by staff on a December 1991 report entitled "Report on Exempting Private Employer Retirement Income from State Taxation." Additional information was requested regarding lawsuits by state retirees in response to legislative action repealing an exemption of state retirement benefits.

At this meeting, the Committee considered three administrative regulations promulgated by the Finance and Administration Cabinet on behalf of the State Investment Commission, as amended at the request of the Administrative Regulation Review Subcommittee. Administrative regulations 200 KAR 14:011 & E, 200 KAR 14:081 & E, and 200 KAR 14:091 & E were all approved by the Committee.

At its fourth meeting, in January 1993, the Committee discussed a letter from the Secretary of the Finance and Administration Cabinet concerning an interpretation of the budget bill relating to the rail rehabilitation project from Paducah to Kevil. The Secretary determined that \$50,000 removed during the budget process from the original \$500,000 appropriated during the 1992 Regular Session, should be placed back into the account. The Committee concurred with the Secretary's interpretation and moved that the Transportation Cabinet might properly grant \$500,000 to the rail rehabilitation project from Paducah to Kevil.

The Committee heard testimony from the president of the Kentucky Lottery Corporation regarding the manner in which funds are transferred from the Kentucky Lottery Corporation to the General Fund. The lottery turned over \$37 million to the state for the first six months of the fiscal year compared to \$45 million for the first six months of the last fiscal year. The president of the Lottery Corporation explained that one reason for the shortage was that the lottery was asked by the Cabinet for an additional \$10 million in June 1992. Another reason for the slow transfer of funds was that retailers were allowed to hold money as an incentive to sell more lottery products. This resulted in retailers holding \$44.5 million due to the state after six months this year, compared to \$7.5 million after six months last year.

Members of the Committee were critical of the practice of allowing retailers to hold money and increase their profit margins with money that should be coming to the state. Members of the Committee also expressed an opinion that the operating budget of the lottery corporation should reflect the revenue estimate numbers.

The Committee also heard from its revenue consultant regarding the liability of the Kentucky Workers' Compensation Fund, and the incurred but unpaid claims for the Kentucky Kare Health Insurance plan. He said that both plans were accurately assessed.

Regarding the year-to-date revenue receipts, General Fund receipts totaled \$2,046.5 million for the July-December period in fiscal year 1992-93, compared to \$2,029.6 million for the same period in fiscal year 1991-92, an 0.8 percent growth rate. After adjustments for non-recurring receipts, the economic growth rate is estimated at 5.5 percent. Based on a gross revenue from last year, and assuming revenue receipts continue to grow at 5.5 percent, the General Fund net revenues should be \$4,468.1 million. He estimated that if the economic growth rate continues and if individual income tax refunds are held over, the fiscal year 1993 shortfall will be \$19.3

million, but if income tax refunds are not carried forward, the budget shortfall will be \$125 million.

The Secretary of the Finance and Administration Cabinet and officials from the Executive Branch responded that the state's revenue shortfalls are manageable. The Cabinet believes that the growth rate for Kentucky is strong at 5.5 percent. The Cabinet agreed that the state faces a shortfall, but projected about \$160 to \$170 million paid out in individual income tax refunds for this fiscal year, as compared to \$235 million last year, would give an estimated shortfall of \$69.6 million for the 1993 fiscal year.

Members of the Committee were concerned about the trend of holding tax refunds over from year-to-year. The Cabinet responded that their intention is to settle up for this year but that there might be refund processing delays.

The Committee discussed the "TWIST" project, a computerized program for social workers in the Department for Social Services. The Human Resources Cabinet used \$1.6 million in Title IV-E money which the final enacted budget memorandum indicated should be used for other projects. A personal service contract was submitted to the Personal Service Contract Review Subcommittee which operated on the assumption that the moneys were available for funding this contract. Because IBM did render the service, the Committee moved unanimously that the Human Resources Cabinet should honor the contract with IBM, using the \$1.6 million that was available in fiscal year 1992, but that they cease all further work on the matter until after the beginning of fiscal year 1994, when moneys are available and appropriated for the purpose.

At its fifth meeting, in February 1993, the Committee heard testimony from the Chief Justice of the Supreme Court, the Public Advocate, and Circuit and District Judges from Fayette County and Jefferson County, on the process of the court's determining an individual's ability to pay a partial fee when represented by a public defender. Legislation was passed in 1992 mandating judges to assess a defendant's claim of indigency and determine how much he should pay when he seeks counsel from the Department of Public Advocacy. The money collected goes to the public defender's office in the area where the partial fee payment is raised, and the concern is whether all judges are complying with this law, since some counties are collecting very little in fees. The Chief Justice stated that it is a judge's statutory duty to make a determination on whether a person for whom a public defender has been appointed is able to pay a partial fee. The judge should make this determination at a non-adversarial hearing with the defendant at the time of arraignment. The Chief Justice said he strongly supports a recoupment program.

The Committee heard from the president of the Kentucky Lottery Corporation regarding the lottery's accounts receivable policy of allowing retailers 30 days to pay for instant tickets. The chairmen of the Committee had previously requested a listing of the lottery's accounts receivable by vendor, which indicated that at the end of 1992, the lottery had approximately \$44 million in accounts receivable. The president indicated, however, that this is not money, only tickets that have been validated for sale.

Members of the Committee were concerned that the lottery's accounts receivable went from \$7 million in fiscal year 1991 to \$44 million in fiscal year 1992, but that it is not money coming into the state but only tickets that have been ordered by retailers. More concern was raised about the lottery's cash flow. A motion was made and adopted by the Committee that the Auditor of Public Accounts conduct additional audits of the Kentucky Lottery Corporation, including performance audits and management audits of the Lottery Corporation, and if an outside private firm is used, it should not be a firm that is currently working for the Lottery Commission.

At its sixth meeting, in March 1993, the Committee heard from the Secretary of the Justice Cabinet on proposed changes in the location of a secure juvenile detention center approved by the 1992 General Assembly for Rowan County. The Secretary explained that the budget provided for moneys for the debt service requirements on a \$1 million bond issue that was sold in fiscal year 1991-92, for a secure juvenile detention center to be located in Rowan County. Following discussion with Rowan County officials, it was determined that a different location would be required. The Justice Cabinet has located a suitable site for the facility in Breathitt County, and the Cabinet requests that the language be changed to authorize the construction of this facility in Breathitt County. The Committee advised the Secretary that KRS 48:500, relating to monitoring and revision of the budget, requires an interpretation from the Secretary of Finance and Administration Cabinet, and that, upon receiving the letter of determination from the secretary, the Committee would take action.

The Committee also heard from the Secretary of the Finance and Administration Cabinet, the State Budget Director, and the Deputy State Budget Director, about an official downward revision of \$69.6 million from the budget estimate that was prepared in January 1992. Two reasons given for the revenue deficit were income tax refund carryover and a tax structural problem. The Secretary also announced at this meeting that the Governor intends to do a complete study of the state's tax structure before the 1994 Regular Session.

The Committee also discussed the state's bond rating with the Secretary of the Finance and Administration Cabinet. The Secretary stated that one bond rating agency revised its outlook for Kentucky from "stable" to "negative" because of problems in the state's tax structure and in revenue levels in the state associated with the tax increase passed as a part of KERA in the 1990 Regular Session. The rating agency is also concerned about continuing lags and refund carryovers. He explained that the rating agency believes that the budget reserve trust fund should be in the range of 3 to 4 percent of the total budget, which would be about \$40 to \$50 million. With the latest budget cut for FY 1993, the budget reserve trust fund will be \$28.5 million, with \$33.5 million projected for FY 1994.

The Committee heard discussion regarding the 2 percent across-the-board cut proposed by the Executive Branch. The Cabinet believes that 2 percent is necessary to balance the budget, and the cut will be imposed at the Cabinet level, so individual Cabinet secretaries have the ability to decide which programs and departments within their Cabinet can sustain the cuts.

The Committee also discussed whether refund carryovers would be necessary in order to balance the budget, and whether current private and federal court cases regarding pensions have been factored into the revenue estimates. The Cabinet responded that these issues are not being ignored. Regarding the pending court cases, it was mentioned by the Cabinet that a possible legislative solution, as opposed to a judicial solution, may be possible when the tax study is completed.

At its seventh meeting, in April 1993, the Committee heard from the Revenue Cabinet on the status of the current year processing of income tax returns. The Cabinet believes it has increased its ability to process income tax refunds this year, and the amounts of money for those refunds processed, compared to last year, indicates that the Cabinet is not holding refunds. The average amount of a refund is larger, and people appear to be using their income tax refund as a forced savings mechanism. The number of pay returns received by the Cabinet through April 16 has declined.

The Committee also heard a report on the third quarter and year-to-date revenue receipts. The Secretary of the Finance and Administration Cabinet reported that Kentucky is experiencing a 6.9 percent economic growth rate for the 3rd quarter of FY 93, and he believes that the \$69.6 million budget cutback made in March 1993 will be sufficient to balance the budget at the end of FY 93. The Cabinet also discussed a meeting with bond rating agencies. The Cabinet reported that the bond rating agencies have no plan to downgrade the level of debt in Kentucky, and that Kentucky is in the median relative to other states, with approximately 5 percent of the General Fund revenues set aside for debt service.

Regarding park bonds, the Cabinet said the rating agencies believe that park bonds would be an appropriate use of the state's revenue to service debt.

Because of the Second Extraordinary Session, the Committee did not hold its eighth meeting until June 1993. At this meeting, the Committee received and discussed an audit of the Kentucky Education Technology System (KETS) from the Division of State Audits. A number of recommendations were made as a result of the audit. The Committee also heard from the Commissioner of the Department of Education, who said the department will implement the recommendations made in the report.

The Committee considered Executive Order 93-422, relating to reorganization of the Finance and Administration Cabinet and the Executive Office for the Governor. The proposed Executive Order allows the Cabinet to realign its resources to maximize service delivery to state and local government agencies. The Committee raised no objection to Executive Order 93-422.

The Committee also heard an official interpretation of appropriations law from the Secretary of the Finance and Administration Cabinet regarding road fund debt service appropriations. The Secretary said the interpretation is a reconfiguration of line item amounts, not exceeding an aggregate dollar amount that was authorized for debt service.

Several concerns were raised about the interpretation regarding road fund debt service appropriations, but a motion was made and seconded. The motion passed, with 25 yeas, 2 no votes, and 2 pass votes.

The Secretary of the Finance and Administration Cabinet explained an official interpretation regarding a proposed lease for consolidation of rental space for the Department of Law. He explained that both the Department of Law and the Finance and Administration Cabinet are of the opinion that no specific recommendation was required, since the consolidation lease is not a new lease, and the operating budget provisions for the Office of the Attorney General includes adequate funding for the payment of rent, including rent for the consolidation leases.

The Committee deferred action on this interpretation until the Attorney General explains the necessity for consolidation of the rental space.

The Committee reviewed administrative regulation 103 KAR 5:150, relating to procedures for the removal of a property valuation administrator from office. The administrative regulation was amended for purposes of clarity in Committee. A motion was made and seconded to approve administrative regulation 103 KAR 5:150, as amended. The motion was adopted.

The Committee also heard from the president of the Kentucky Lottery Corporation on the lottery's net proceeds to the General Fund, and an update on its accounts receivable aging report. The president stated that the lottery sales for FY 93 will total approximately \$485 million, and the lottery will transfer \$100 million to the state by June 29, 1993. The accounts receivable for accounts over 30 days amounts to approximately \$16 to \$16.5 million, accounts from 31 days to 45 days amounts to approximately \$10 million, accounts from 46 to 60 days amounts to \$9.3 million, and accounts from 61 to 90 days amounts to approximately \$1.2 million.

Members of the Committee expressed concern about the percentage of sales returned by the lottery to the state. Even though a set percentage of sales was not mandated by the state, a goal was set to expect 35 percent in return. However, the return was 34.4 percent in FY 90, 25.3 percent in FY 91, and 23.4 percent in FY 92, and it will be 20.6 percent for FY 93. Several members of the Committee also expressed concern about the uneven and slow flow of payments made by the lottery.

At its ninth meeting, held in July 1993, the Committee heard from members of a consensus forecasting Committee that was developed to analyze the revenue outlook for Kentucky. The Committee, consisting of representatives from both the legislative branch and the executive branch, said that the revised projected revenue is \$4.6 billion for the General Fund through June 30, 1994, down \$264.1 million from the original General Fund forecast made in May 1992. A contributing factor to the budget deficit was the holdover of \$102 million in individual income tax refunds. The revised projection assumes that refunds will not be carried over into FY 1995.

The Committee received and heard testimony it had requested Corporation from the Auditor of Public Accounts on the performance audit of the Kentucky Lottery. As a result of the performance audit, a resolution was adopted requesting and urging the members of the Board of Directors of the Kentucky Lottery Corporation to tender their resignations immediately to the

Office of the Governor. Another resolution was adopted requesting that the Attorney General review the management audit to determine whether there is any evidence of violation of criminal laws of the Commonwealth by the Board of Directors and the officers of the Kentucky Lottery Corporation.

The tenth meeting of the Committee, held in August 1993, included a discussion of the Governor's budget cut-back plan for FY 1994. The secretary of the Governor's Executive Cabinet stated that the budget reduction for FY 94 is approximately \$347 million and deliberately exceeds the \$264 million revenue shortfall, so that \$80 million in surplus funds can be transferred to the Budget Reserve Trust Fund, in case revenue falls below expectations, and also to assure Kentucky's credit position with rating agencies

As required by KRS Chapter 13A, the Committee reviewed 71 Revenue Cabinet administrative regulations. Four administrative regulations were found to be deficient by staff analysis under the guidelines established under KRS Chapter 13A.

The eleventh meeting was held in September 1993, when the Committee heard about the Revenue Cabinet's strategic plan. The Secretary said a strategic plan was developed to enable the Cabinet to provide improved services to the taxpayers of Kentucky and also to address tax administration problems. Two major issues identified by the secretary that need to be dealt with are tax administration and changing the tax structure.

The Committee reviewed 56 Revenue Cabinet administrative regulations, as required by KRS Chapter 13A. Sixteen administrative regulations were found to be deficient by staff analysis under the guidelines established under KRS Chapter 13A. Administrative regulation 103 KAR 44:040, relating to motor vehicle valuation, was passed over at this meeting.

At its twelfth meeting, in October 1993, the Committee met with the new president, vice-president, and board members of the Kentucky Lottery Corporation. The president stated that the Kentucky Lottery Corporation is addressing particular areas mentioned in the recent management audit of the lottery, including car allowances, expense reimbursement, health club memberships, travel, and the employee compensation package. The accounts receivable remained at \$26 million and total assets increased to \$230 million.

The Committee received and heard testimony from the Commissioner of the Department of Personnel on the 1993 State Government Salary Survey, as required by HB 468, the 1992-94 Executive Branch budget bill. Two major recommendations were made by the Department to accomplish long-term adjustment and improvement in Kentucky state government's salary equity position.

The Committee also heard from the consensus forecasting Committee regarding preliminary revenue estimates for the upcoming biennium. The General Fund estimate provides \$345.5 million in new funds in fiscal year 1995, and \$241.7 million in new funds in fiscal year 1996. The uneven growth expectations result from approximately \$102 million in refunds that were carried forward from fiscal year 1993. The Road Fund estimate for the biennium provides for \$15.8 million in new funds in fiscal year 1995, and \$27.4 million in new funds in fiscal year

1996. The estimates are based on forecasts of the state and national economies and of taxpayer behavior in response to these economic conditions. Risks would include different economic outcomes, taxpayer behavior, and recent and pending litigations.

The State Budget Director and the Deputy State Budget Director appeared before the Committee to discuss Secretary's Order 94-156, directing the reduction of certain General Fund appropriations and allotments to state government agencies by sums sufficient to prevent a deficit in the finances.

Members of the Committee heard from the Secretary of the Justice Cabinet on changing the location of a secure juvenile detention center approved by the 1992 General Assembly from Rowan County to Breathitt County. The Secretary was advised that a determination from the Secretary of the Finance and Administration Cabinet would be required before Committee action could be taken.

The Committee adopted two resolutions, one requesting the Governor to withhold any action directed toward the privatization of the Commonwealth's system of publicly funded and administered mental health and mental retardation facilities, and a second directing the Tourism Cabinet to present a detailed list of all recommended park projects to be funded by the bond issue.

The Committee also reviewed Revenue Cabinet administrative regulation 103 KAR 44:040, relating to motor vehicle valuation, which was found to be deficient by staff analysis under the guidelines established under KRS Chapter 13A.

SUBCOMMITTEE ACTIVITY

Justice, Corrections, and Judiciary

The Budget Review Subcommittee on Justice, Corrections, and Judiciary met five times during the 1992-93 Interim. Items of discussion included the Circuit Court Clerks' automated SUSTAIN System, the U. S. District Court Ruling regarding age discrimination for Kentucky State Police retirees, juvenile detention/diversion facilities, budget reductions for FY 1992-93, and a status report of the expansion programs authorized by the 1992 General Assembly for the Department of Corrections. The Subcommittee has reviewed and recommended approval of nine requests for FY 1992-93 interim appropriation adjustments by the Justice Cabinet, as follows:

Department of Correction:

Multiple Divisions*	General Fund	\$347,400
Adult Institutions	Federal funds	\$176,200
Corrections Management	Federal funds	\$ 43,100

State Police	Restricted Funds	\$2,851,400
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*These adjustments were a result of Executive Order No. 92-511, which reorganized the Corrections Cabinet within the Justice Cabinet pursuant to SB 267, as enacted by the 1992 General Assembly.

The remainder of the interim will be used to review additional requests for interim appropriation adjustments, FY 1993-94 budget reductions, adult inmate population projections for the 1994-96 Biennium, and the Justice Cabinet's proposed legislation for the 1994 Regular Session of the General Assembly, and to continue to monitor the implementation of expansion programs authorized by the 1992 General Assembly for the Justice Cabinet and the Judicial Branch.

Human Resources

The Budget Review Subcommittee on Human Resources met six times during the interim. Plans for additional interim meetings will be determined by the nature of the appropriation revision requests, the development of Health Care Reform initiatives and other Cabinet-related issues, and the Agency FB 1994-96 Budget Request.

Per 1992 House Bill 468, Human Resources budget revisions resulted in \$157.8 million above the Enacted Budget in FY 1992-93. This consisted of \$413,400 from the General Fund, including General Fund reductions; \$19.7 million Restricted Funds; and \$137.8 million in federal funds. Through the first quarter of FY 1993-94, revisions had added another \$69.2 million, consisting of \$26.3 million from the General Fund prior to General Fund reduction; \$2.8 million in Restricted Funds; and \$40.1 million in federal funds.

The net effect on each department is as follows:

	<u>FY 1992-93</u>	<u>1st Quarter FY 1993-94</u>
Administration and Program Support	\$20,131,900	\$26,829,700
Mental Health/Mental Retardation	5,553,700	4,600,800
Health Services	13,746,600	16,091,800
Handicapped Children	214,200	4,000
Employment Services	79,042,700	2,801,400
Social Insurance	25,919,900	3,533,100
Medicaid	(9,844,700)	-0-
Social Services	<u>23,078,700</u>	<u>15,383,000</u>
Net Dollar Increase	\$157,843,000	\$69,243,800

Other topics discussed include: hiring of Department for Social Services (DSS) social workers, as directed by HB 468, Cabinet unbudgeted positions, General Fund budget reductions, the Hospital Indigent Care Assessment Program (HICAP), and 1992 HB 371 (relating to Boarding Homes).

Education

The Budget Review Subcommittee on Education has met six times during the interim, from January, 1993, through October, 1993. The Subcommittee discussed several topics during this time.

Presidents of the state universities, the Chairman and Executive Director of the Council on Higher Education, the Executive Director of the Kentucky Higher Education Assistance Authority, and representatives from student government organizations at the state universities came before the Subcommittee to discuss a proposal for a mid-year (1992-93 school term) tuition increase.

The Secretary, Education, Arts, and Humanities Cabinet, discussed the reorganization of the Cabinet, placing emphasis on the establishment of a Development Office within the Cabinet. The Secretary provided detailed information concerning the organization of this office and the type of assistance the office would provide all agencies in the Cabinet. The Secretary also discussed Pew Charitable Trust activity in the Commonwealth, particularly the competition for a multimillion dollar, multi-year grant to assist selected school districts.

Portions of two meetings were devoted to a discussion of the Kentucky Department of Education's management audit of the Kentucky High School Athletic Association (KHSAA). The discussion revolved around the findings of the audit, the response of the KHSAA, and the action taken by the State Board for Elementary and Secondary Education. The Subcommittee expressed special concern about the Commonwealth's liability should the KHSAA default on an outstanding bond issue.

The Subcommittee devoted one complete meeting and portions of two others to discussions related to the Kentucky Education Technology System (KETS). Representatives from the Finance and Administration Cabinet, the Office of Education Accountability, and the Kentucky Department of Education made various presentations to the Subcommittee on their roles and responsibilities in this project.

The Commissioner of Education came before the Subcommittee and discussed the effect that reductions in the General Fund would have on the Department of Education and local school districts. Accompanying the Commissioner were two local school district superintendents, who discussed the effects of a reduction and offered their suggestions for the 1994-96 biennial budget.

The Secretary, Workforce Development Cabinet, presented the Subcommittee an overview of the status of the Cabinet and the budget request that would be submitted for the 1994-96 biennium.

The Subcommittee approved the following appropriation increases: FY 1992-93; federal funds - six requests totaling \$31,268,300; Restricted Funds - four requests, totaling \$427,500; FY 1993-94; federal funds - 21 requests, totaling \$55,868,387; Restricted Funds - 20 requests, totaling \$2,615,400. The Subcommittee also approved the following appropriation decreases: FY 1993-94; federal funds - three requests, totaling \$325,000.

General Government, Finance and Public Protection

The Budget Review Subcommittee on General Government, Finance and Public Protection has held eight meetings during the interim. The Subcommittee reviewed appropriation increases/decreases and approved the following:

	FY 1992-93		FY 1993-94	
	<u>Amount</u>	<u>Number</u>	<u>Amount</u>	<u>Number</u>
General Fund	\$4,792,290	35	\$902,600	27
Restricted Funds	5,665,840	27	11,037,800	23
Federal funds	7,365,000	17	3,894,800	18

These totals do not reflect the budget reductions ordered by the Governor. The increases/decreases by Cabinet are as follows:

FY 1992-93

<u>Cabinet</u>	<u>General Fund</u>	<u>Restricted Funds</u>	<u>Federal Funds</u>
<u>General Government</u>			
Office of Governor			\$17,500
Board of Elections	94,190		
Department of Law		300,000	111,800
UPS Commonwealth	50,000		67,200
Agriculture		29,000	352,500
Military Affairs - Operations	1,252,000	400,000	4,400,000
Personnel		2,660,000	
Local Government			2,300,000
County Costs	135,000		
Miscellaneous Appropriations	3,261,100		
Commission on Women		8,000	
Boards and Commissions		402,240	

FY 1992-93

<u>Cabinet</u>	<u>General Fund</u>	<u>Restricted Funds</u>	<u>Federal Funds</u>
<u>Finance and Administration</u>			
<u>Cabinet</u>			
General Administration	(277,700)	(39,919)	-0-
Administration		40,000	-0-
Facilities	277,700	39,919	-0-
<u>Public Protection & Regulation</u>	-0-	1,688,900	116,000
<u>Revenue</u>	<hr/>	<hr/>	<hr/>
	\$4,792,290	\$5,665,840	\$7,365,000

FY 1993-94**Cabinet****General Government**

	<u>General Fund</u>	<u>Restricted Funds</u>	<u>Federal funds</u>
Office of Governor			45,000
Department of Law		3,780,600	(157,100)
UPS Commonwealth			58,900
Agriculture		104,000	143,900
Military Affairs - Operations	368,000	4,117,700	5,487,300
Military Affairs - Nursing Homes		1,898,000	(1,898,000)
Personnel		140,000	
Local Government		40,100	(40,100)
County Costs	70,000		
Miscellaneous Appropriations	20,000		
Human Rights Commission		18,000	(18,200)
Boards and Commissions		395,100	

Finance and Administration**Cabinet**

General Administration	(482,700)	(47,000)	
Administration	490,400	129,700	
Facilities	436,900	47,000	

Public Protection & Regulation

	26,200	58,000
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Revenue

	<u> </u>	<u>388,400</u>	<u>215,000</u>
	\$902,600	\$11,037,800	\$3,894,800

The Subcommittee also reviewed the Office of Environmental Advocacy in the Department of Agriculture, and the Workers' Compensation Funding Commission, and intends to review The National Voter Registration Act in November.

Economic Development, Natural Resources, & Tourism

The Budget Review Subcommittee on Economic Development, Natural Resources, and Tourism has held twelve meetings during the 1992-93 Interim from August, 1992, through October, 1993.

The Subcommittee reviewed and approved 38 requests for restricted agency funds appropriation increases totaling \$8,944,000 and 30 requests for federal funds appropriation increases totaling \$10,247,000. The increases by Cabinet and fiscal year are as follows:

FY 1992-93 Appropriation Increases

<u>Cabinet</u>	<u>Number of Requests</u>	<u>Restricted Agency Funds</u>	<u>Federal Funds</u>
Economic Development	3	\$ 286,000	
Natural Resources	29	2,590,000	\$5,209,700
Tourism	<u>4</u>	<u>538,700</u>	<u>77,600</u>
TOTALS	36	\$3,414,700	\$5,287,300

FY 1993-94 Appropriation Increases

<u>Cabinet</u>	<u>Number of Requests</u>	<u>Restricted Agency Funds</u>	<u>Federal Funds</u>
Economic Development	5	\$ 399,000	
Natural Resources	26	5,130,300	\$4,949,000
Tourism	<u>1</u>	<u>0</u>	<u>10,700</u>
TOTALS	32	\$5,529,300	\$4,959,700

Topics have included discussions with the Economic Development Cabinet regarding the reorganization of the Cabinet, economic development programs in Eastern Kentucky, the Recycling Brokerage Authority, the Coal Marketing and Export Council, the Local Government Economic Development Fund Program, the Strategic Plan, progress of the Regional Offices, personnel appointments, and an update on Enterprise Zones. The Natural Resources Cabinet presented information on the Solid Waste Program, expansion of the Underground Storage Tank Program, implementation of the Federal Clean Air Act and Emission Fees, evaluation of a state government energy conservation program, reorganizations of the Hearings Office and the Maxey Flats Program, and establishment of the Statewide Geographic Information System Office. The Tourism Cabinet made presentations on the \$100 million Parks Revitalization Bond, the State Advertising Campaign, the Kentucky State Fair, and Kentucky Kingdom. In FY 1994, technical reclassifications due to the 1990 Federal Cash Management Act and the transfer of the federal Abandoned Mine Land Program appropriation from the capital budget to the operating budget were reported.

Subcommittee agendas also included discussions with all three Cabinets regarding the 2% General Fund budget reductions in FY 1992-93, the 2% and targeted General Fund Cuts in FY 1993-94, and reviews of quarterly reports mandated by the Budget Bill. A special meeting was held in October, 1993, to review the implementation of the Cabinets' 1992-94 capital projects budget and to discuss capital projects requests that may come before the 1994 General Assembly.

Transportation

The Budget Review Subcommittee on Transportation held seven meetings during the 1992-93 Interim. During that period, the Subcommittee reviewed and recommended for approval appropriation increase requests that amounted to the following totals. The Vehicle Regulation's Road Fund appropriation for FY 1992-93 was increased by \$152,000 (from \$19,884,600 to \$20,036,600). All of the following requests involved federal moneys.

	<u>Fiscal Year 1992-93</u>		
<u>Appropriation Unit</u>	<u>Enacted</u>	<u>Revision</u>	<u>Revised Appropriation</u>
Vehicle Regulation	1,000,000	228,400	1,228,400
Public Transportation	3,762,700	700,000	4,462,700
Air Transportation	14,400	128,000	142,400

	<u>Fiscal Year 1993-94</u>		
<u>Appropriation Unit</u>	<u>Enacted</u>	<u>Revision</u>	<u>Revised Appropriation</u>
Vehicle Regulation	1,000,000	116,000	1,116,000
Air Transportation	15,000	113,000	128,000
Rail Transportation	50,000	125,000	175,000

Several issues were addressed in Subcommittee meetings, three of which were given special attention by the members. House Bill 468 required the Transportation Cabinet to submit quarterly reports on the expenditures that were paid from the Highway Construction Contingency Account and the Deferred Project Construction Fund. The Subcommittee sought and received information on how the Transportation Cabinet determined which projects were eligible for funding from the Deferred Project Construction Fund. Secondly, the Subcommittee received lists of projects that had been funded from the Highway Construction Contingency Account and the criteria used to support funding an activity from this account.

Federally mandated safety requirements were the second major issue addressed. Kentucky was required to have a statewide seatbelt law and an automatic driver's license revocation law for drug offense convictions by October 1, 1993. The Subcommittee invited representatives from the National Highway Traffic Safety Administration to explain the fiscal ramifications of not having these laws in place by that date.

The expansion of the state motorpool to include all motor vehicles owned by state government was addressed, as it relates to the expected increased costs to the Transportation Cabinet and potentially to the Road Fund. A primary concern was how the eventual replacement of these additional motor vehicles would be incorporated into the existing replacement schedule of the motorpool.

**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE**

**Representative Billy Ray Smith, Co-Chair
Senator Tim Shaughnessy, Co-Chair**

Representative Jon Ackerson
Representative Ray Altman
Representative Eddie Ballard
Senator Walter Blevins
Senator Charles Borders
Representative James Bruce
Senator Tom Buford
Senator Lindy Casebier
Representative Stan Cave
Representative Herbie Deskins
Representative Mark Farrow
Senator Jeffrey Green
Representative Elbert Hampton

Representative Porter Hatcher
Representative Louis Johnson
Representative Richard Lewis
Representative Ramsey Morris, Jr.
Representative Stephen Nunn
Representative Frank Rasche
Representative Dorsey Ridley
Representative Steven Riggs
Senator Larry Saunders
Representative Rex Smith
Senator Thomas Smith, Jr.
Representative David Stengel
Representative Mark Treesh

LRC Staff: Greg Freedman, Judy Fritz, Jamie Griffin

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SUBCOMMITTEE ON INSURANCE**

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Representative Jon Ackerson
Representative Ray Altman
Representative Eddie Ballard
Senator Tom Buford
Representative Stan Cave
Representative Mark Farrow

Senator Jeff Green
Representative Ramsey Morris
Representative Steve Nunn
Representative Dorsey Ridley
Representative Steven Riggs
Senator Larry Saunders

**Senator Tim Shaughnessy, Ex-Officio
Representative Billy Ray Smith, Ex-Officio**

SUBCOMMITTEE ON BANKING

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Representative Walter Blevins
Senator Charles Borders
Representative James Bruce
Senator Lindy Casebier
Representative Herbie Deskins
Representative Elbert Hampton
Representative Louis Johnson

Representative Richard Lewis
Representative Frank Rasche
Representative Rex Smith
Senator Thomas Smith, Jr.
Representative David Stengel
Representative Mark Treesh

**Senator Tim Shaughnessy, Ex-Officio
Representative Billy Ray Smith, Ex-Officio**

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

COMMITTEE JURISDICTION: matters pertaining to banking, banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the blue sky law; mortgage guaranty insurance; assessment and cooperative insurance, fraternal benefit societies; hospital services 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 held twelve meetings during the 1992-93 Interim. The Committee established two subcommittees, the Subcommittee on Financial Institutions and the Subcommittee on Insurance.

The Committee held its first meeting of the Interim on August 27, 1992. The Secretary of the Cabinet for Human Resources addressed the Committee on the progress of the Governor's Commission on Health Care Reform. Also at the first meeting, the Committee heard from the Commissioner of the Department of Financial Institutions, the Kentucky Bankers Association, and the Community Bankers of Kentucky on the financial condition of Kentucky's banks. The Committee was told that capital adequacy, asset quality, earnings, and return on average assets for Kentucky's state-chartered banks exceed the national averages and that the chairman of the FDIC has stated that Kentucky remains one of the top banking states. The Committee discussed over-regulation of the banking industry and legislation before Congress to remove some regulations.

At the Committee's September meeting, the Committee heard testimony from the Kentucky Association of Counties(KACO). The Committee discussed KACO's worker's compensation and property and casualty liability self-insurance programs. Questions were raised concerning whether KACO's self-insurance program is exempt from regulation by the Department of Insurance and whether there is adequate disclosure by KACO of financial data on its self-insurance programs. The Committee also heard testimony from the Kentucky League of Cities on its insurance programs, including worker's compensation, unemployment, liability, and health. The Commissioner of the Department of Personnel also addressed the Committee at its second meeting. The Commissioner stated that Kentucky Kare, the state's self-insured health care program for state employees, had reserves of \$36.5 million as of June 30, 1991. The Commissioner said the third party administrator of the program was paid \$5.4 million, which is less than it would cost the state if the state assumed responsibilities as the program administrator.

At the Committee's third meeting, which was held in October, the General Counsel of the Department of Insurance responded to questions of members pertaining to KACO's testimony at the September meeting. Associations that self-insure against professional liability or public liability risks may apply with the Department for a certificate of filing and be exempt from the insurance code. KACO has a certificate of filing but has not submitted a financial statement in compliance

with departmental regulation. The Department is considering whether to request an opinion of the Attorney General. The Committee also discussed the status of the National Business Association Trust (NBAT) failure with the Department. NBAT is subject to a liquidation order and the Department has sued the principals to gather assets to pay outstanding claims. At the time of the meeting there were approximately 4,300 claims outstanding, which amount to \$7.6 million. Of those claims, 915, totaling in excess of \$1 million, are Kentucky claims.

The Committee also heard testimony from the Commissioner of the Department of Personnel on the latest financial report on the Kentucky Kare self-insured health plan. As of June 30, 1992, the plan had \$25 million in unpaid claims and \$77.7 million in assets, leaving reserves of \$52.7 million.

The Committee discussed the proposed merger of Blue Cross/Blue Shield of Kentucky with Associated Insurance Co. (Blue Cross/Blue Shield of Indiana) at its November meeting. Representatives of Blue Cross/Blue Shield of Kentucky assured Committee members that after the merger there would be no fewer jobs in Kentucky and that there would be a Kentucky domiciled company that would house the existing BC/BS of Kentucky operations. The agreement provides that the company will not be moved for a seven-year period. The Board of Directors would be structured with one-third of the members from the Kentucky company and two-thirds from Associated.

The Committee was given an update on the Kentucky Department of Insurance by the Commissioner at its December meeting.

At its March, 1993 meeting, the Committee heard the Commissioner of Insurance give an update on the Department's takeover of Kentucky Central Life Insurance Company. The Commissioner reviewed events leading up to the takeover and said it appears that the company is liquid and can pay all policy claims. He said there are six major prospects interested in purchasing the company and that he has hired a person from Capital Holding to act as CEO of Kentucky Central for six months. The Commissioner said the Department had been monitoring and trying to help Kentucky Central for the past two years.

At its April meeting, the Committee discussed health insurance reform with a member of the Brookings Institution, the Assistant General Counsel for the Health Insurance Association of America, a representative of the Health Maintenance Association of Kentucky, and an actuary with Blue Cross/Blue Shield of Kentucky.

The Committee was addressed by the Commissioner of the Department of Financial Institutions at two June meetings. The Commissioner explained the proposed reorganization of the Department and the Committee approved Executive Order 93-528, reorganizing the Department. In June the Committee received another update on Kentucky Central from the Commissioner of Insurance. The Commissioner discussed, among other things, the 1987 sale of Kentucky Central's office tower and its agreement to lease it back, the concentration of loans to a Lexington developer, and the examinations of the company by the Department since 1980.

In August the Committee was addressed by the Commissioner of Financial Institutions on the Department's role in regulating mortgage loans made by insurance companies and how it oversees government securities held by domestic insurers. The Committee also discussed the appearance of a conflict of interest on the part of the Department's General Counsel, who formerly worked at Kentucky Central. The Attorney General explained to the Committee its role in the investigation of Kentucky Central. A spokesperson for the law firm acting as counsel for the rehabilitator of Kentucky Central discussed the rehabilitation of Kentucky Central.

The Committee met in Lexington at the Kentucky Bankers Association convention and was addressed by the Executive Director of the Kentucky Bankers Association on the condition of banking in the United States and the Bank Insurance Fund. The Commissioner of the Department of Financial Institutions spoke on the condition of banking in Kentucky. He said that 10 Kentucky banks were unprofitable on March 31, 1993, as compared to 12 last year, and that overall Kentucky banks were sound. Net income of Kentucky banks during the first quarter of 1993 was up 5 percent over the same period last year.

The Committee's last meeting of the 1992-93 interim was held on October 26, 1993. The Auditor's office described a review of Kentucky's insurance laws and regulations, as requested by the Committee because of the Kentucky Central rehabilitation. The Auditor's Office said the laws on the books seemed sufficient and that of implementation of the law is the issue. It recommended the Department move ahead on receiving certification from the National Association of Insurance Commissioners. The Committee was also addressed by spokespersons for the Department of Insurance on the latest developments concerning Kentucky Central. Questions were raised about the Department's effectiveness and about actions by past commissioners. The Committee agreed to look at how the Department is funded and at qualifications to be Commissioner.

Subcommittee on Insurance

The Subcommittee held two meetings during the Interim. At its September meeting it discussed the affordability of automobile insurance with representatives of the National Association of Independent Insurers, Kentucky Farm Bureau, State Farm, and State Auto Insurance. The Subcommittee was told that in 1991 Kentucky ranked as the 39th lowest state in automobile insurance premiums. The subcommittee discussed the stacking of uninsured and underinsured motorist coverages and agreed to meet and hear from the Kentucky Association of Trail Attorneys(KATA). In October the Subcommittee heard testimony on stacking from KATA, the Attorney General, and State Farm.

Subcommittee on Financial Institutions

The Subcommittee on Financial Institutions held one meeting during the Interim. It met in October, 1993, and was addressed by the Executive Director of the Office of Financial Management and Economic Analysis. The Subcommittee was told that of the state's \$1.5 billion investment portfolio, about seven percent is deposited in Kentucky banks. There are no funds deposited in banks outside of Kentucky. The Subcommittee agreed to notify the Kentucky Bankers Association, since a member of the Association had inquired whether state funds are deposited in out-of-state banks.

**REPORT OF THE 1993-94
INTERIM JOINT COMMITTEE ON
BUSINESS ORGANIZATIONS AND PROFESSIONS**

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Sen. Fred Bradley
Rep. Thomas J. Burch
Rep. Denver Butler
Rep. Jim Callahan
Rep. Larry Clark
Rep. Robert Damron
Rep. W.I. "Bill" Donnermeyer
Rep. Leonard Gray
Rep. E. Porter Hatcher
Sen. Gene Huff
Rep. Bill Lear

Rep. Bill Lile
Sen. Kim Nelson
Rep. Ruth Ann Palumbo
Sen. Tim Philpot
Rep. Jon David Reinhardt
Sen. Landon Sexton
Rep. Donna Shacklette
Rep. Martin J. Sheehan
Rep. Charlie Walton
Sen. Gex (Jay) Williams

LRC STAFF: Michael Greer, Michael Meeks, Vida Murray, Yair Riback, and Sue Craft

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Sen. Kim Nelson
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Sen. Gex (Jay) Williams

Senator Jeff Green, Ex-Officio

Representative Jim Yates, Ex-Officio

INTERIM JOINT COMMITTEE ON BUSINESS ORGANIZATIONS AND PROFESSIONS

COMMITTEE 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; non-profit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; warehouses and warehousemen; partnerships; and trade practices.

COMMITTEE ACTIVITY

The Interim Joint Committee on Business Organizations and Professions held its first meeting on August 31, 1992, and met a total of 14 times during the 1992-93 Interim. The August 13, 1993, meeting was held in Prestonsburg, Ky., and the remaining meetings were held in Frankfort.

The first subject on the Committee's interim agenda was charitable gaming. A provision of 1992 Senate Bill 321 directed the Committee to study alternative approaches to regulating charitable gaming and submit a report to the Legislative Research Committee by November, 1992. Staff research began in early summer, 1992, and the Committee began holding hearings in September. A report was approved at the November 24, 1992, committee meeting and submitted to LRC. A bill draft based on Committee recommendations, 94 RS BR 160, was produced in February, 1993, and the Committee heard some initial testimony on the draft at its February meeting.

The Committee completed one other study during the interim. House Bill 556 directed the Committee to study restaurant franchising. Research was begun in the fall of 1992 and a draft staff report was submitted to the Committee prior to the March 12, 1993, meeting. Representatives of franchisees and franchisers testified at the March meeting on issues identified through the research. Written responses to these issues were also included in the staff report draft. Follow-up testimony was scheduled for May, but the meeting was canceled due to conflict with the special session. Both sides were, however, given the opportunity to submit additional testimony in writing. In June, 1993, the staff report, without recommendations, was submitted to the Legislative Research Commission.

The Committee also heard testimony on 94 RS BR 240, relating to the regulation of horse racing, which was prefiled in May, 1993. On June 11, 1993, one of the bill's sponsors appeared before the Committee to explain the bill and answer questions. Since the bill affected the harness racing industry's interest in expanding into eastern Kentucky, a hearing on the bill was held on August 13, 1993, at the Holiday Inn in Prestonsburg, Kentucky. Both sponsors testified, as did local officials and harness industry representatives who supported the legislation.

The Committee also heard testimony on riverboat gambling. At the June 11, 1993 meeting, representatives of the Attorney General's office testified on border issues raised by the operation of a riverboat casino operating from Metropolis, Illinois. A tourism official from the Paducah/McCracken County area testified on the positive effect the riverboat was having on tourism related businesses. The general manager and the legal counsel for Bluegrass Downs, a Paducah race track, testified on the negative impact the riverboat was having on attendance and handle at that track. An economist from the University of Louisville testified on the negative effects of casino gambling on racing, based on a 1991 study conducted in New Jersey. Other racing industry representatives also commented at this meeting on the potentially adverse impact of riverboat and casino gambling on horse racing. At its July 9, 1993, meeting, the Committee adopted a motion to request an Attorney General's opinion on the need for a Constitutional amendment to permit casino gambling.

The Committee was also briefed on the concept of a "limited liability company." In 1988, Wyoming was the first of more than twenty states to pass legislation allowing a business to organize as a limited liability company. This new form of business organization combines elements of other organizational forms to create an approach which is more conducive to the operation of small and medium size businesses. At its March 12, 1993, meeting the Committee heard testimony from representatives of a joint subcommittee of the Kentucky Bar Association and the Kentucky Society of Certified Public Accountants that had been created to explore the concept and draft legislation for Kentucky. The Business Organizations and Professions Committee has concurrent jurisdiction on this subject with the Judiciary Committee.

As required by statute, the Committee reviewed 46 administrative regulations promulgated by 12 different agencies and referred by LRC. The Committee also approved at its October 8, 1993, meeting, a report on the quadrennial review activities of its subcommittees.

Subcommittee on Occupations and Professions

The Subcommittee on Occupations and Professions met twice during the 1992-93 interim. At its first meeting, the Subcommittee conducted the quadrennial review of the administrative regulations of the following administrative agencies:

- *Kentucky Board of Veterinary Examiners
- *Kentucky Board of Embalmers and Funeral Directors
- *Kentucky Board of Auctioneers
- *Kentucky Board of Hairdressers and Cosmetologists
- *Kentucky Board of Barbering
- *Kentucky Board of Accounting
- *Kentucky Board of Landscape Architects

All the administrative regulations of these agencies were approved as presented. In addition, the Subcommittee received testimony on 94 RS BR 70, relating to heating, ventilation, and air conditioning contractors, but deferred action. The Subcommittee also deferred action on 94 RS BR 79 relating to health and safety. This bill would require an individual to obtain

certification before parachute jumping and would require certification of parachute jump instructors.

At the second meeting, the Subcommittee deferred action on 94 RS BR 70 and 94 RS BR 79 due to lack of a quorum.

Subcommittee on Business Regulation

The Subcommittee on Business Regulation met three times during the 1992-93 interim and considered draft legislation proposed by the Attorney General and the Alcoholic Beverage Control Department. The Subcommittee postponed taking action on the Administrative Regulations of the Alcoholic Beverage Control Department, scheduled for quadrennial review.

At the Subcommittee's first and second meeting, the Attorney General and his staff testified on proposed changes to the charitable solicitation laws. They noted that the proposed law requires professional fund-raisers to pay a registration fee, post a bond, and disclose information on the charity's use of money, if requested.

The Attorney General noted that some professional fund raisers divert moneys from legitimate charities. He also reported that some professional fund raisers earmark 20 percent or less of the money raised through solicitations to legitimate charitable purposes. Other provisions in the draft: make violations of the law a Class D felony, prohibit fund raisers who are convicted of defrauding consumers in another state from fund raising in Kentucky, empower the Attorney General's office to deny or revoke registrations, and require professional fund raisers to disclose the percentage of moneys going to charity.

Members of the Subcommittee expressed concern that the costs of registering and posting a bond would be prohibitive for small charities and suggested that a lower cap be established, so that fund raisers not exceeding the specified amount would not be required to register. The Subcommittee questioned whether provisions affording special treatment to the elderly were overreaching.

During the second meeting the Attorney General also proposed legislation that would curb abuses associated with telephone solicitation. The proposed bill would allow consumers registering with the Attorney General's office to be placed on a "no call" list so that they would be insulated from unwanted telephone solicitations. The bill, which would impose time, place, and manner restrictions on telephone solicitations, would require a salesperson to disclose the true nature of his call and inquire whether the consumer wished the sales pitch to continue. Moreover, the Attorney General testified that the bill provides for a 14-day cooling off period in which the consumer may cancel a sale and requires the telemarketer to post a \$50,000 bond for the benefit of potential victims. An Assistant Attorney General reported that Kentucky was an attractive place for unscrupulous solicitors because of the state's tax laws and the enactment of stricter laws in other states.

At its third meeting the Subcommittee, at the request of the Alcoholic Beverage Control Department, postponed the quadrennial review of the agency's administrative regulations. The

General Counsel for the Department testified that the agency plans to introduce legislation during the Session that would disallow a credit afforded liquor licensees on their state licenses for license fees paid in the city and county. The General Counsel noted that this bill would amend the existing statute so as to disallow the credit and place moneys gained into the agency fund. In response to questions from Subcommittee members, the General Counsel noted that under the existing budget bill and the proposed legislation, licensees paying a city and county license fee would pay more to the state for licenses.

Subcommittee on Charitable Gaming

In March, 1993, the Legislative Research Commission approved the creation of a special Subcommittee on Charitable Gaming. The purpose of the Subcommittee was to develop legislation to effectively regulate charitable gaming in Kentucky. The Subcommittee began holding hearings in April, 1993, and a comprehensive and detailed review of a staff draft, 94 RS BR 160, was begun later that same month. A total of five meetings were held with the final meeting being a two-day session on September 29 and 30, 1993.

The first day of the final meeting, the Subcommittee completed its section-by-section review of the draft and discussed unresolved issues. On the second day, key issues were again discussed and refinements made to the draft. The revised draft was then approved and the Subcommittee Chairman presented the draft to the full committee and answered questions at the October 8, 1993, meeting of the Interim Joint Committee on Business Organizations and Professions.

**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE ON
CITIES AND LOCAL GOVERNMENT**

**SENATOR ROBERT LEEPER, CO-CHAIR
REPRESENTATIVE BILL DONNERMEYER, CO-CHAIR**

Rep. Denver Butler
Rep. Jim Callahan
Rep. Bob DeWeese
Sen. Jeff Green
Rep. Louis Johnson
Sen. David Karem
Sen. Dan Kelly
Rep. Jim LeMaster

Sen. Danny Meyer
Sen. Joe Meyer
Rep. Clarence Noland
Sen. Rick Rand
Sen. Dick Roeding
Rep. Charlie Walton
Rep. Jim Wayne
Sen. David Williams

LRC STAFF: Jamie Jo Franklin, John Schaaf, and Cheryl J. Walters

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON MUNICIPAL FINANCE

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Rep. Jim Callahan
Sen. Jeff Green
Sen. Dan Kelly

Sen. Rick Rand
Rep. Charlie Walton
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Senator Robert Leeper, Ex-Officio
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SUBCOMMITTEE ON HOUSING

Representative Jim Wayne, Chair

Rep. Bob DeWeese
Sen. David Karem
Sen. Danny Meyer

Rep. Clarence Noland
Sen. Dick Roeding

Senator Robert Leeper, Ex-Officio
Representative Bill Donnermeyer, Ex-Officio

INTERIM JOINT COMMITTEE ON CITIES AND LOCAL GOVERNMENT

COMMITTEE JURISDICTION: matters pertaining to the officers, organization, government and financing of city government; special purpose assessment and taxing districts within a city; incorporation and classification of cities; city revenue bond projects; the imposition of duties and costs on cities; city taxes and licenses; city indebtedness; compensation of city officers; metropolitan sewer districts; interlocal government cooperation; housing projects; urban renewal and redevelopment; city streets and sidewalks; sewers; annexation of territory; consolidation of local government services; forms of city government; city civil service; city finances and revenue; public works; police and fire departments and their retirement systems; municipal utilities and waterworks; parks and playgrounds; planning and zoning; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; police courts and city attorneys; city libraries.

COMMITTEE ACTIVITY

At the beginning of the 1992- 1993 interim, the Interim Joint Committee on Cities formed two subcommittees: housing and municipal finance. These groups met until the 1993 Organizational Session, at which time the Senate merged its Committees on Cities and Counties and Special Districts into a Committee on Local Government. This group then merged with the House Committee on Cities, to form the Interim Joint Committee on Cities and Local Government. The newly formed interim committee also decided to continue the work of the Subcommittees on Housing and Municipal Finance.

The newly formed Interim Joint Committee and its predecessor met eleven times during the 1992-1993 interim period. Nine of the meetings were held in Frankfort, one in Fort Mitchell and another in Lexington.

The Committee began its interim activities with the review of several administrative regulations relating to the Kentucky Building and Plumbing Codes. Throughout the remainder of the interim, the Committee reviewed several proposed regulatory amendments and also performed the required quadrennial review of those administrative regulations which had been assigned to the Committee for review. During the reviews, the Committee heard testimony from representatives of the Department of Housing, Buildings and Construction, the State Fire Marshal's Office, volunteer firefighters and the manufactured housing industry.

At its next three meetings, the Committee reviewed the activities of various state agencies, programs and interest groups which deal with local governments. The members heard an overview and update on the activities and programs of the Department of Local Government. There was a discussion about the effects of the recent budget cutbacks in state government and the effect they will have on the agency's services. The Committee also discussed the agency's activities relating to the Kentucky Municipal Law Center, the Small Cities Community Development Block Grant and the state's Local Government Economic Assistance Fund. The Committee then reviewed the activities and programs of the Kentucky League of Cities (KLC) at

its annual meeting in Lexington. At that time, members heard reports on the state of Kentucky's cities and legislative proposals affecting cities. Also, the Committee reviewed the activities of the Kentucky Enterprise Zone Program. For this discussion the members met with representatives of the Economic Development Cabinet, the Revenue Cabinet, the Cabinet for Human Resources and the Attorney General's Office for insight about the effect of recent statutory changes and an Attorney General's opinion regarding the constitutionality of the program. During this same meeting, there was also a discussion of the recently implemented Firefighter Inoculation Program, which is administered by the Commission on Fire Protection Personnel Standards and Education.

In February of this year, the Committee held a public hearing to review and hear public comments regarding the state's 1993 Small Cities Community Development Block Grant application, which is administered by the Department of Local Government. In April, discussions began regarding the need for an ethics code for Kentucky's local government officials. Throughout the remainder of the interim the Committee continued its review of legislative proposals which would create a local government code of ethics. Joint meetings with the Interim Joint Committee on Counties and Local Government were held on three occasions to discuss this topic. Testimony was heard from various local officials from around the state, as well as the Kentucky League of Cities, the Kentucky Association of Counties and its affiliate organizations. The Committee did not prefile any legislation on this topic, opting instead to continue discussion of the subject during the 1994 General Assembly.

Intermixed with discussions on ethics, the Committee also heard four other reports relating to local government activities and programs: it met with representatives of the State Auditor's Office to review a recently completed investigative report about municipal financial investments and the risk that some local governments faced by recent investment in some non-secured investments; it heard a presentation by the Department of Criminal Justice Training regarding the statewide training of local police officers, which had been mandated in 1992; it received testimony from the Kentucky League of Cities regarding recent court decisions relating to the jurisdiction of local police officers; and it reviewed a report on the compensation of local officials, prepared by Legislative Research Commission staff, which had been mandated by 1992 SCR 65.

Lastly, the Committee also gave approval to two bills for the 1994 General Assembly which were developed by its Subcommittee on Housing. These are:

94 BR 460 - An Act relating to housing; and

94 BR 281 - A Resolution petitioning the House of Representatives of the United States Congress and the Department of Housing and Urban Development of the United States to simplify the application procedures and requirements for obtaining funds from affordable housing programs.

Subcommittee on Housing

The Subcommittee on Housing held four meetings during the interim. The emphasis at these meetings was on provision of affordable housing and development of a housing policy for the Commonwealth.

During its meetings, the Subcommittee met with representatives of the Kentucky Housing Corporation, the Lexington-Fayette Urban County Government's Department of Housing, home builders, the U.S. Department of Housing and Urban Development, the disabled, the manufactured housing industry, non-profit housing agencies, public housing authorities, rental property providers and the Kentucky Department of Housing, Buildings and Construction.

The result of these discussions was the reporting of three bills to the full committee for its recommendation. They are: 94 BR 460 - An Act relating to Housing; 94 BR 280 - A Resolution petitioning the House of Representatives of the United States Congress and the Department of Housing and Urban Development of the United States to simplify the application procedures and requirements for obtaining funds from affordable housing programs; and 94 BR 281 - An Act relating to enforcement of the Kentucky Building Code.

Subcommittee on Municipal Finance

The Subcommittee on Municipal Finance met three times during the interim to discuss issues related to tax and budget problems of local governments.

The Subcommittee devoted one meeting to a review of an Opinion of the Attorney General which declared the state's enterprise zone program to be unconstitutional on the grounds that it is special legislation, legislation which does not treat similarly situated areas of the state in the same manner. The Attorney General told the Subcommittee that representatives from his office were meeting with the Lt. Governor to develop enterprise zone legislation which would meet the standards set by the Kentucky Constitution.

Officials from the Cabinet for Economic Development said they hired a law firm to review the program, and the firm disagreed with the Opinion of the Attorney General. An attorney for the City of Louisville pointed out that the Opinion of the Attorney General is just an opinion and has no force of law. He said the state's largest enterprise zone would continue to operate as it had been. The state and city officials said they were willing to work with the Attorney General's Office to reshape the enterprise zone statutes.

The Subcommittee also reviewed the insurance premium tax which is levied by 241 cities and 13 counties in Kentucky. The Kentucky League of Cities told the Subcommittee that cities are opposed to any legislation which would limit the authority of local governments to impose insurance premium taxes on health and life insurance policies.

In October, 1993, the Subcommittee discussed problems with local payroll tax reporting, especially in such areas as northern Kentucky, where businesses operate in several different cities and counties. At the same meeting, an official from the state's Department of Local Government presented the department's legislative recommendations for the 1994 General Assembly.

**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE ON
COUNTIES, SPECIAL DISTRICTS AND LOCAL GOVERNMENT**

**Senator Robert Leeper, Co-Chair
Representative Adrian Arnold, Co-Chair**

Representative Royce Adams
Representative Ray Altman
Representative Russell Bentley
Representative Jeffrey Buis
Representative Danny Ford
Representative Kenny French
Representative Donnie Gedling
Representative Walter Gee
Representative Drew Graham
Senator Jeffrey Green
Representative Elbert Hampton
Representative Hank Hancock

Representative David Hourigan
Senator David Karem
Senator Daniel Kelly
Representative June Lyne
Representative Sam McElroy
Senator Danny Meyer
Senator Rick Rand
Representative Steven Riggs
Senator Richard Roeding
Representative Billy Ray Smith
Representative Mark Treesh
Senator David Williams

LRC STAFF: William Wiley, Bill Van Arsdall, Betsy Barton, and Jayne Rogers

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON RURAL FIRE PROTECTION

Representative Russell Bentley, Chair
Senator Thomas Smith, Jr., Vice-Chair

Representative Donnie Gedling
Representative Walter Gee
Representative David Hourigan
Senator Gene Huff
Senator Daniel Kelly
Representative June Lyne

Representative Sam McElroy
Representative Stephen Nunn
Representative Richard Sanders, Jr.
Representative Billy Ray Smith
Representative Tom O'Dell Smith
Representative Tommy Todd

Senator Robert Leeper, Ex-Officio
Representative Adrian Arnold, Ex-Officio

INTERIM JOINT COMMITTEE ON COUNTIES AND LOCAL GOVERNMENT

JURISDICTION: matters pertaining to the officers, organization, government and financing of county governments; county imposed taxes and licenses; county and special district debt; the imposition of duties and costs on counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of county officers and employees; the offices of county judge, magistrates, county attorney, sheriff, constable, county police, jailer, coroner, surveyor, county clerk; county employees' civil service and retirement; planning and zoning; interlocal cooperation and consolidation of services; county roads; public road districts; water districts; fire protection districts; issuance of bonds for county and special district projects; metropolitan sewer and sanitation districts; local air pollution control districts; county and county law libraries; library districts.

COMMITTEE ACTIVITY

During the 1992-93 Interim, the Interim Joint Committee on Counties and Local Government held eight meetings prior to November 1, 1993. The Committee will meet jointly on November 11th with the Interim Joint Committee on Cities and Local Government to consider a bill draft relating to an ethics code for local government officials.

The Committee entered the interim as the Interim Joint Committee on Counties and Special Districts. It had one Subcommittee on Rural Fire Protection. After the General Assembly's January 1993 Organizational Session, it was reorganized in its present form, and the activities of the Subcommittee were subsumed by the full Committee. The following is a summary of the activities of the full Committee and the Subcommittee.

The major topics discussed by the Interim Joint Committee on Counties and Local Government were the political rights and job security of county employees, as related to a series of federal court decisions, the legal standing of volunteer fire departments created as nonprofit corporations, and ethical standards for local government officials. The Committee prefiled 94 BR 111, providing for certification and enhanced legal standing of nonprofit corporation volunteer fire departments.

The Committee received and reviewed a research memorandum on compensation of local government officials in Kentucky, prepared by its staff in compliance with 1992 SCR 65. The Committee also reviewed 14 administrative regulations under the regular and quadrennial regulation review processes established in KRS Chapter 13A.

Subcommittee on Rural Fire Protection

The Subcommittee on Rural Fire Protection held two meetings on October 8 and November 12, 1992. It heard testimony by the State Fire Marshal and the Kentucky Firefighters Association, and gave initial consideration to the bill which became BR 111, prefiled by the full Committee.

**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE ON
ECONOMIC DEVELOPMENT**

**Senator Susan D. Johns, Co-Chair
Representative Bill Lear, Co-Chair**

Sen. Charlie Borders	Sen. Michael R. Moloney
Sen. David E. Boswell	Sen. Virgil Moore
Sen. Fred Bradley	Rep. Lonnie Napier
Rep. Jo Elizabeth Bryant	Rep. Fred Nesler
Sen. Tom Buford	Rep. Anne M. Northup
Rep. Jack L. Coleman, Jr.	Rep. Tom Riner
Rep. Jesse Crenshaw	Sen. Larry Saunders
Rep. Robert R. Damron	Rep. Donna Shacklette
Rep. Donald B. Farley	Rep. John Will Stacy
Rep. Mark Farrow	Rep. Charlie Walton
Rep. Jim Maggard	Rep. James B. Yates
	Sen. Danny Meyer

LRC STAFF: Gordon F. Mullins, Mary Yaeger, John Buckner, Jessie Sue Simpson

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT

COMMITTEE 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 development; recruitment of business and industry; small business matters relative to economic 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 historical sites; travel promotion and advertising.

COMMITTEE ACTIVITY

During the 1992-93 Interim, the Interim Joint Committee on Economic Development held eleven meetings prior to November 1, 1993. No subcommittees were appointed for the interim. The committee also will meet on November 18, 1993, to consider legislation proposed by the Cabinet for Economic Development and to review a study of Kentucky's prison farm system mandated by 1992 HCR 170.

Major topics discussed by the committee were: workers' training, youth apprenticeships, work-based training and school-to-work systems; transition of low-skill, labor intensive industries to a high-performance economy; decentralization of state economic development services; regionally based, market driven economic development initiatives, such as the East Kentucky Corporation; inventors' assistance programs, such as the Oklahoma Inventors' Assistance Act; Kentucky's Investment Capital Network, which matches entrepreneurial business opportunities with sources of equity funding; Kentucky's international marketing and trade assistance activities, provided by the Kentucky World Trade Center, Inc., the Kentucky Coal Marketing and Export Council, within the Cabinet for Economic Development, and the Center for Agricultural Export Development, at the University of Kentucky; recommendations contained in the Kentucky District Export Council's "Strategic Plan for Export Development"; technology transfer and development programs, such as the Mississippi Institute for Technology Development, the Center for Robotics and Manufacturing Systems, located at the University of Kentucky; industrial networking initiatives, including the Kentucky Wood Manufacturers' Network; outreach and network brokerage services to manufacturer, review of state financial incentives and assistance programs operated by the Department of Financial Incentives of the Cabinet for Economic Development; overview and recommendations regarding the economic potential of telecommunications and the status of Kentucky's telecommunications infrastructure; economic potential of Kentucky's wood products industries; economic development services potential of Kentucky's regional universities; and industrial extension programs, such as Pennsylvania's Industrial Resource Center Program.

The Committee reviewed and approved 307 KAR 2:010, regarding the Kentucky Jobs Development Authority, and 307 KAR 3:010, regarding the Kentucky Industrial Revitalization

Authority, pursuant to the administrative regulation review processes established under KRS Chapter 13A.

Additionally, at its first and second meetings of the interim, the Committee reviewed and approved three executive orders reorganizing the Cabinet for Economic Development and to make necessary realignments in the Cabinet's structure to conform with 1992 HB 89, including: Executive Order 92-387, to establish the Coal Marketing and Export Council with the Cabinet for Economic Development, and abolishing the Governor's Office for Coal and Energy Policy, the Kentucky Export Council and the Kentucky Coal Authority; Executive Order 92-559, to reorganize the Cabinet for Economic Development into five major divisions, including the Secretary's Office, the Department of Administration and Support, the Department of Jobs Development, the Department of Financial Incentives, and the Department of Community Development; and Executive Order 92-626, which clarified language relative to the Kentucky Rural Economic Development Authority (KREDA). During discussion of Executive Order 92-559, representatives of the Cabinet for Economic Development focused their remarks on how the Cabinet might combine the efforts of all of its departments to address the problems of a specific region or community that is critically impaired by high unemployment. Cabinet representatives noted that 80 to 85 Kentucky counties are not ready for economic development and are in need of intensified assistance. It was noted that the return of coal severance tax dollars to many of those counties would be used to create necessary infrastructure in those counties.

The purpose of the third meeting was to gain information on workforce training and development in Kentucky. It was noted that while the Kentucky Education Reform Act provided for improved educational standards of the workforce after Year 2000, 80% of the workforce of Year 2000 are the existing workforce. This meant that for Kentucky to realize a quick, short-term improvement in the caliber of its workforce, the skill levels of workers currently employed or underemployed must be upgraded.

On the issue of workers' training, the Secretary of the Workforce Cabinet discussed his cabinet's efforts to plan for the future of the Kentucky Tech System and its 87 secondary and post-secondary schools. The Secretary noted that during the past year, the system trained over 36,000 workers through customized or upgrade programs, with over 249 industries. The Secretary was asked to address the issue of separation or multiplicity of agencies involved in workforce training. The Secretary agreed that some agencies have the same client base; however, he said the Workforce Cabinet, the University of Kentucky Community College System, and higher education in general have different strengths, and that these agencies should not compete but work together, each specializing in its respective areas of strength.

At this meeting the Committee also heard from a representative of Jobs for the Future, of Cambridge, Massachusetts. The speaker stated that this is a critical time in the history of the United States, because we are in the process of economic transition that will cause major changes in the ways that public and private sectors work together. He noted that according to the information he had received, Kentucky is developing the institutional, infrastructure and policy base essential for workforce improvement. Workforce issues facing Kentucky and the rest of the country relate to loss of high-wage jobs, the relative decline in US. productivity, greatly enhanced foreign competition, and our future, higher skilled economy. It was noted that the emerging

consensus among states on workforce development is to move our economy toward high performance jobs. This conversion will require a long-term commitment and take 10 to 15 years from the date of commitment before states begin to feel they are progressing.

Regarding the issue of fragmentation of workforce related agencies and programs, the representative of Jobs for the Future said that user surveys indicate that the current situation in many states is user unfriendly. He said that the America's Choice Commission reported that only about 5% of American employers have high-performance work organizations, and the rate of adoption by all firms, especially smaller firms, is quite low. Public policy should be focused toward demand side of skills' development. This includes total quality management, ISO 9000, and meeting world market needs. Finally, it was noted that the health of a state's economy is judged by the performance of an average business, not the shining stars. Unfortunately, most states have companies with much lower technology and older product lines, older management and older workforces. These companies are slow to innovate, slower to adopt new hard and soft technologies, and they invest too little in training. The key is to affect the way these firms learn of change and how to effectuate internal change. State approaches that have been developed to facilitate demand side change include: technology brokers; university-based extension services, which may employ full-time technological engineers to work with local companies; technology centers; and state-sponsored consulting services.

In terms of priority, the JFF representative said that education policy must focus on people currently working. He noted that there are as many adult illiterates in the state as there are children in K through 12, and yet the funding factor is usually a factor of 50 times less for adult training. Future training dollars should deal with the needs of smaller firms and front-line workers.

The Committee also heard from front-line training programs, such as the Applied Process Technology Program at Ashland Kentucky Tech, which was developed in cooperation with Ashland Oil and the Bluegrass State Skills Corporation. Additionally, the Committee heard from the Chancellor of the University of Kentucky Community College System about the programs at the state community colleges, and the Commonwealth Training Partnership, a joint venture among the Workforce Cabinet's Kentucky Tech System, the Kentucky Chamber of Commerce, and the University of Kentucky Community College System.

The fifth meeting continued the discussion of state workers' training program with a presentation by representatives of the Cabinet for Economic Development and the Bluegrass State Skills Corporation. The representative of BSSC said that his organization has four main functions: 1) to administer and fund through training grants Kentucky's industry specific training program; 2) to act as a broker, by coordinating the resources of others involved in job training; 3) to facilitate and fund new educational and training programs designed to meet unfilled training needs in the state; and 4) to administer any special state appropriation for industry specific training. He reported that BSSC was working with the Kentucky Science and Technology Council, Inc., in a human capital audit, which has the following objectives: to develop a profile of Kentucky's future economy, to specify trends which will shape the workplace within industries especially significant to Kentucky's future economy, to develop a blueprint of a quality workforce for the future economy, to assess where Kentucky's current workforce in comparison with the

blueprint of a quality workforce, and to address gaps between Kentucky's current position and where Kentucky needs to be in dealing with workforce capabilities required for future economies.

Since then, the human capital audit has been completed, but as of October 29, 1993, a final report had not been issued. Workers' training and related issues have been a recurrent theme of the committee during the interim, re-emerging again and again later in the interim as the committee visited such topics as technology transfer and development, high-performance industries, industrial extension, and business networks.

The sixth meeting focused on the importance of export trade to Kentucky's economy. Speakers included representatives of the Kentucky District Export Council, which represents state community business leaders actively involved in international business, representatives of the Kentucky World Trade Center, Inc., and the Kentucky Coal Marketing and Export Council, within the Cabinet for Economic Development. Discussion primarily centered on the District Export Council's 17 recommendations set forth in its "Strategic Plan for Export Development," including: establish an international trade authority in the Cabinet for Economic Development; organize industry sector advisory committees for agribusiness, basic commodities, manufacturing, and service industries; target high-potential industries for export development by providing tax incentives for investment in research and development and by promotion and participation in trade shows and foreign market events; develop export education programs and foster business-oriented educational programs; work with existing financial institutions to improve access to export capital and create an export loan program for small and medium-sized businesses; create a statewide clearinghouse for export and international trade information and events; promote adoption by Kentucky businesses of recognized international standards, such as ISO 9000, IEC standards for electrical components, as opposed to UL and NEMA ratings, and ASME (American Society of Mechanical Engineers) and other international pressure vessel code standards; improve transportation infrastructure to support international business; and establish a state-supported export trading company.

Technology transfer and development were the subjects of the seventh meeting of the committee, including presentations by the president and chief executive officers of the Institute for Technology Development, Jackson, Mississippi, a private non-profit corporation whose principal goal is to foster the development of technology-based enterprises within the State of Mississippi by taking the research and scientific capabilities that exist in the state and turning them into an economic engine. It was noted that if Kentucky embarks on an effort to stimulate technology-based economic development, it should be prepared to accept the political costs inherent in concentrating its initial efforts in a relatively small geographic area. Additionally, it was stated that the state must recognize there will be failures. To expect and demand 100% success will only destroy chances for long-range success. Failure can be minimized but can not be eliminated, since technology development and commercialization of technology always entail risk.

One question asked was, considering Kentucky's heavy investment in mining, agriculture and heavy manufacturing, how does Kentucky attract hi-tech industries to areas where there are not top-notch universities available? The ITD representative said that absent universities, the state must select targeted areas and either expand programs at available universities or create a program similar to ITD. Following the ITD presentation, the director of the Center for Robotics

and Manufacturing Systems, located at the University of Kentucky, spoke. CRMS, which was established by act of the Kentucky General Assembly, has the following mission: to develop and expand the scientific and engineering foundations of manufacturing and automation technologies, to transfer technical knowledge and information to enhance Kentucky's industrial competitiveness and support statewide economic development, and to support educational activities that advance the technologies and business needs of manufacturing.

The director of the CRMS was asked whether the CRMS operation and a similar program at the University of Louisville should be lifted out of those institutions and the business demands be separated from the academic demands typical of universities. It was the director's opinion that the only effective technology transfer programs are those housed with and in direct cooperative linkage with places where new technology is being developed.

The eighth meeting focused on industrial networks. Speakers represented the Kentucky Science and Technology Council, Inc., the Cabinet for Economic Development, Associated Industries of Kentucky, and the Mountain Association for Community Economic Development. Flexible business networks that have proven key to the success of economic growth in Italy and Denmark are collaborative, strategic relationships that bring firms together to enhance their competitiveness. Basic benefits to businesses include: adoption of new management practices, new services, increased production, savings, increased margins of profits, and production improvements. Networking opportunities include: sharing resources and cost reduction through technology improvement, improved design capacity and shared market information; expanding markets through export promotion, advertising, and the like; complementary production through production networks and subcontracting arrangements; and joint solutions to common problems through training, loan guarantee consortia, and certification programs.

Representatives of the Cabinet for Economic Development discussed funding of network assistance and broker assistance with Associated Industries of Kentucky and MACED. Discussion centered on the Kentucky Wood Manufacturers' Network, which has a core group of 17 firms. AIK identified the following groups likely for early success in networking: the wood-working network, a training consortium in Elizabethtown, a Carrollton group, and the Chemical Industry Council.

Following the ninth meeting, a joint meeting with the Special Subcommittee on Energy in Louisville, at the Telecommunications Research Center on the Shelby Campus of the University of Louisville, the Committee's tenth meeting focused on Kentucky's wood industry. Speakers included representatives of the Kentucky Forest Industry Association, a trade association with approximately 650 members representing primary and secondary industries, landowners, professional foresters and suppliers.

The director of the KFIA noted that there are over 26,000 jobs related to the wood industry in Kentucky. It is a \$1.2 billion industry, supplied by 12.7 million acres of forest lands, covering about one-half of Kentucky. It was noted that Kentucky is 4th in the nation in hardwood lumber production, with logs, lumber, dimension parts, and other wood products shipped throughout the world. A question was asked regarding the percentage of timber harvested in Kentucky that has some value added to it before it is shipped out of Kentucky. Over

90% of logs felled in Kentucky are made into lumber in Kentucky, and probably 50% of that lumber has some value added to it before shipping.

The Director of the Center for Economic Development at Eastern Kentucky University presented a report on the potential for secondary wood industry development in Kentucky. It was noted that with Kentucky producing over \$1 billion annually in wood products from 12 million acres of timber, Indiana, with its 4 million acres of forest, is producing \$4 billion in wood products, with 50,000 employees, and Tennessee, with 13 million acres, is producing \$4 billion annually, with 44,000 employees. According to the report, Indiana and Tennessee have more secondary industries, which in many instances use Kentucky wood.

Another finding of the CED report is that for 1992 and the first half of 1993, less than 1% of state economic development financial assistance went to the wood industry. Since 1985, only \$450,000 had been spent on projects directly related to wood industry development. Little coordination of effort and no statewide coordination of wood industry development efforts were found. The reverse situation was found in those states enjoying considerable more success in developing the wood industry.

Seven recommendations are contained in the CED report, *Kentucky Secondary Wood Development: An Assessment and Action Plan*:

1. Reactivate the previously authorized Wood Industry Leadership Commission and charge it with overall oversight for wood industry training, technical assistance, and
2. Encourage and support the flexible network manufacturing concept as a mechanism to foster growth and competitiveness of small wood product manufacturers;
3. Develop a system of workers' compensation that will be more equitable for wood industries;
4. Fund positions within existing educational institutions for personnel with wood industry and education experience (specifically Kentucky Tech, the Community College System, and Eastern Kentucky University);
5. Address issues of technical assistance and support for the wood industry by funding positions at Morehead State University, Eastern Kentucky University, Western Kentucky University, the University of Kentucky, the Wood Utilization Center at Quicksand, and the Kentucky Division of Forestry;
6. Plan and implement effective forest management on private lands by funding 27 additional foresters in the Kentucky Division of Forestry; and
7. Staff an office in the Cabinet for Economic Development to work with new wood product companies seeking to locate in Kentucky.

A representative of the East Kentucky Corporation indicated the following impediments to the development of a secondary wood products industry in Kentucky: high unemployment rates,

perception that trained workers are not available, and the lack of mid-level industries between raw wood and finished wood products. High workers' compensation rates for the timber industry also were cited by all presenters as a major impediment. However, a representative of the secondary industry indicated that the problem looms larger on the primary side than it does on the secondary. Small secondary companies, he pointed out, have pooled their resources to provide safety training and to bargain with group insurance carriers, while many loggers do not have adequate safety training and therefore experience higher rates of injury and loss.

The Committee Chairman asked the industry representatives if they would support a timber severance tax to provide revenue to support wood industry development and training. Most of the industry representatives were of the opinion that such a tax would be difficult to administer and would be counter-productive. A representative of the secondary industry said that his greatest fear with a severance tax is that it has the effect of taxing the primary industry to develop the secondary market. He said there would be some support from the industry, if the industry is satisfied that those revenues are going toward strategic development and initiatives to help the industry address its problems, such as cutting the currently high costs for workers' compensation insurance. The Committee directed staff to prepare a report on workers' compensation insurance rates in the industry in Kentucky, as compared to rates in the industry in surrounding states.

The eleventh meeting included a discussion on the roles of state regional universities in economic development with representatives of each of the state's regional universities (including Eastern Kentucky University, Kentucky State University, Murray State University, Morehead State University, Northern Kentucky University and Western Kentucky University), regarding their respective institutions' roles in economic development. Each university obviously has a primary mission of education, and each institution, it is noted, also serves its respective region and the state in the areas of research and development. Specifically, Eastern Kentucky University supports the Center for Economic Development with its research on such topics as Kentucky's wood industry. Kentucky State University established the Center for Excellence and Quality and has advanced in such areas as aquaculture, human nutrition, and oil science. Morehead State University provides small business development center programs throughout its region, having served over 500 clients at offices in Ashland, Morehead and Pikeville. Also, Morehead State has created a Small Business Institute, with graduate students working with companies in problem solving settings. The representative from Murray State University spoke about the numerous services and assistance programs provided to businesses in its 18-county service area, including the university's telecommunications interactive educational resources, available throughout its service area. Northern Kentucky University's representative spoke about work with the Northern Kentucky Chamber of Commerce in developing a business solutions center for small businesses, the small business incubator program, work with the Northern Kentucky Convention and Visitors Bureau and the Northern Kentucky Restaurant Association on hospitality and tourism services training, and work with the Greater Cincinnati International Airport in customized language training, essential to operation of an international air transportation center. Finally, the representative from Western Kentucky University mentioned numerous services and training opportunities offered by his institution, but he stressed their work in community leadership training as the first step in revitalizing communities and their economies.

Finally, the Director of the Northeast Pennsylvania Resources Center, of West Pittston, Pennsylvania, discussed Pennsylvania's industrial resource center program, which was begun six years ago by Pennsylvania Governor Casey to help Pennsylvania manufacturers enhance their competitiveness and productivity by introducing manufacturers to modern production technologies, techniques and philosophies. Services by the industrial resource center which are subsidized by the Commonwealth of Pennsylvania from a state fund of \$10 million annually, include: defining and clarifying a problem or opportunity, identifying and qualifying a consultant to assist a firm, if in-house expertise is not available, and discounting the consultant fee by 50% to 25% through the state subsidy, negotiating a three-part contract for services to be provided, and managing the consultant's engagement until all work is satisfactorily completed. From 1989 to 1993, the state has spent \$49 million, which has been matched with \$158 million in cash from 2,558 assisted manufacturers, for a total of 4,115 projects, including workforce development, quality management, technology improvement, factory automation, plant operations, and manufacturing systems and business strategy systems projects. For fiscal 1993, 73 projects have reported value added at \$5.9 million.

State funds are distributed among the centers, based on the number of manufacturing enterprises in each center's respective region. Other regional projects undertaken by centers include revolving loan funds, human resources networks, networks of defense impacted firms, apprenticeship training programs associated with school districts and community colleges (primarily paid for by industries), Appalachian Regional Commission development programs, and the Manufacturers' Association of Northeast Pennsylvania.

It was emphasized that if the Commonwealth of Kentucky wishes to establish an industrial resources program, existing resources and institutions should be utilized. For instance, the state could train one or two people from the regional universities in all aspects of economic development and these people could deploy state development and financing programs to small and medium-sized manufacturers. The NPIRC representative also suggested seeking the financial support of utility companies for a statewide industrial resources network. This approach has been quite successful in Pennsylvania, since utilities are the great losers if industries shut down or leave their service area.

**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE ON EDUCATION**

**Senator Ed Ford, Co-Chair
Representative Freed Curd, Co-Chair**

Sen. Benny Ray Bailey
Sen. Walter Baker
Rep. Joe Barrows
Rep. Russell Bentley
Sen. Charles Berger
Rep. Jo Elizabeth Bryant
Rep. Lindy Casebier
Rep. Jack Coleman, Jr.
Rep. John Harper
Rep. Dave Hourigan
Sen. Nick Kafoglis
Sen. David Karem
Rep. Stephen Keith
Rep. Tom Kerr
Rep. Richard Lewis
Rep. Bill Lile

Rep. Clayton Little
Sen. Joe Meyer
Rep. Harry Moberly, Jr.
Sen. Gerald Neal
Rep. Anne Northup
Rep. Kenny Rapier
Rep. Frank Rasche
Rep. Jody Richards
Rep. Tom Riner
Rep. Ernesto Scorsone
Sen. Landon Sexton
Sen. Tim Shaughnessy
Rep. Leslie Trapp
Rep. Mike Ward
Rep. James Zimmerman

LRC STAFF: Sandra Deaton, Ethel Alston, Bonnie Brinly, Donna Weaver, Sue Mahoney, and Penny Robbins.

**PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON STUDENTS AND CURRICULUM

Sen. David Kareem, Co-Chair
Rep. Harry Moberly, Co-Chair
Sen. Lindy Casebier
Rep. Dave Hourigan
Sen. Nick Kafoglis
Rep. Tom Kerr
Rep. Bill Lile
Sen. Gerald Neal
Rep. Anne Northup
Sen. Landon Sexton

SUBCOMMITTEE ON GOVERNANCE AND FINANCE

Sen. Joe Meyer, Co-Chair
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Sen. Walter Baker
Rep. Russell Bentley
Sen. Charles Berger
Rep. Jack Coleman, Jr.
Rep. Stephen Keith
Rep. Clayton Little
Rep. Jody Richards
Rep. James Zimmerman

SUBCOMMITTEE ON POSTSECONDARY EDUCATION AND THE TEACHING PROFESSION

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Rep. Ernesto Scorsone, Co-Chair
Rep. Jo Elizabeth Bryant
Rep. John Harper
Rep. Richard Lewis
Rep. Kenny Rapier
Rep. Frank Rasche
Rep. Tom Riner
Rep. Leslie Trapp
Rep. Mike Ward

EX-OFFICIO MEMBERS OF ALL SUBCOMMITTEES

Senator Ed Ford
Representative Freed Curd

INTERIM JOINT COMMITTEE ON EDUCATION

COMMITTEE JURISDICTION: matters pertaining to elementary and secondary and higher education; the State Board for Elementary and Secondary Education; the Department of Education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts; teachers' qualifications and certification; curriculum; teachers' retirement; school employees; pupil transportation; school property and buildings; the Education and Humanities Cabinet; the Workforce Development Cabinet; state universities and colleges; community colleges; and independent universities and colleges.

COMMITTEE ACTIVITY

During the 1992-93 interim, the Interim Joint Committee on Education met regularly to gather testimony and hear reports on issues within its jurisdiction. The Committee held fourteen regular meetings to receive reports from the subcommittees and hear testimony on the following topics:

* The Partnership for Reform Initiative in Science and Mathematics, the PRISM Project, is made possible by a grant from the National Science Foundation. It will help Kentucky develop a world class science and mathematics instructional system and improve the overall literacy in science and mathematics of all Kentucky students.

* Kentucky's Curriculum Framework was created to expand the six learning goals and the expected outcomes for students, pursuant to KRS 158.6451. The framework was completed and distributed to schools during July 1993.

* A report on the Kentucky Education Technology System, describing the master plan and the implementation plan.

* Three reports on the Kentucky Instructional Results Information System were heard, including the results of the 1991-92 and 1992-93 school years assessment efforts.

* Corporal punishment is administered more frequently in Kentucky than in other states. The administrative regulation of the State Board for Elementary and Secondary Education prohibiting corporal punishment expired in April 1992, and many schools have reinstated its use.

* In response to 1992 House Resolution 271, a report on the school breakfast program revealed that the program is growing, but there are still ten school districts without a breakfast program.

* Senate Bill 109 required new accountability measures of higher education and required the Council on Higher Education to develop an implementation plan. The baseline data will be available by December, 1993.

* School-based decision making has been implemented in nearly half of the schools. There is still disagreement over areas of decision-making responsibilities.

* The 1992 Annual Report of the Office of Education Accountability was presented by the Director.

* Safety in the schools was discussed and recommendations were made to continue many of the new Kentucky Education Reform programs, such as family resource and youth services centers, preschool, professional development, individualized instruction and family involvement. All of these efforts support the creation of a safe school environment.

* The Collaborative for State Agency Children was implemented pursuant to Senate Bill 260.

* The early observations of the Kentucky Education Reform Act were outlined in a study completed in partnership with the National Governors Association and the Prichard Committee for Academic Excellence.

* The university presidents reported on the impact of budget reductions in higher education.

* The investors in the Kentucky Educational Savings Plan Trust Program have not increased significantly because of IRS rulings that contributions are not tax exempt. The committee sent resolutions to the Kentucky Congressional delegation requesting that they pursue amendments to the Internal Revenue Code of 1986 exempting the income earned on savings for higher education costs from federal taxation.

* The Task Force on High School Restructuring reported its recommendations. The State Board for Elementary and Secondary Education will implement eight pilot sites to test the recommendations.

* Kentucky received a planning grant from the PEW Charitable Trust for a nine-year grant of \$2 million per year. The planning grant is an application to establish a new model of delivering health and social services to children.

The Committee approved the following executive orders:

Executive Order 92-1023, Trover Clinic Foundation/University of Louisville School of Medicine Teaching Center

Executive Reorganization Order 92-1073, The Education, Arts and Humanities Cabinet

Executive Reorganization Order 93-184, Development Office, Education, Arts and Humanities Cabinet

Executive Reorganization Orders 93-689 and 93-542, Department of Education

The Committee also completed the Quadrennial Review of Administrative Regulations.

Subcommittee Of Governance And Finance

The Subcommittee on Governance and Finance conducted ten meetings during the interim to hear testimony and gather information on a variety of issues important to education reform. Following is a summary of the discussions by topic.

The Office of Education Accountability

The Subcommittee on Governance and Finance heard an overview from the Director of the Office of Education Accountability (OEA) on the implementation of the Education Reform Act initiatives and recommendations noted in the OEA 1992 Annual Report. The report suggests the General Assembly should review and establish standards regarding the following issues: local school district finance, accounting methods and audit reports, travel expenses, banking practices, and competitive bidding for professional services.

The Management Assistance Program

With the emphasis shifted from voluntary assistance in managing schools to mandatory supervision, Department of Education officials explained that their efforts were so focused on Harlan and Floyd Counties that resources, timing and strategy suggested that the department not become heavily involved in other districts during the ongoing supervisions. The Department is also developing the "Exemplary Partnership Program," which will partner districts having good management practices with other districts that desire to improve and adopt innovative programs. Rewards are proposed for the exemplary school district and the district seeking improvement.

Support Education Excellence in Kentucky Funding Program (SEEK)

Department officials reported that all but one school district participated in the Tier I tax levy, with an increase in the allocation from \$25 million to \$81 million over the last biennium. Also regarding local tax assessments, department officials stated that 1979 House Bill 44 was not repealed by the Education Reform Act, but that the latter allowed districts to levy tax rates exceeding rates allowed by House Bill 44.

Other issues discussed which impact the SEEK funding formula were: the inequities of the state's retirement match between districts with high and lower teacher salaries, full day funding for kindergarten, budget cycle timelines, and full funding of the equalized portion of the Facilities Support Program in Kentucky.

Hold Harmless Provision - The Subcommittee heard testimony indicating that since the advent of SEEK and the hold harmless guarantee, no school district received less moneys than the previous year. In 1990 - 91, no district received less than an 8% increase in funding, and in the second year, 1992, districts actually received 4.03%, rather than the projected 5%, because of an insufficient allocation.

Concerning the issue of equity among the school districts, Department representatives pointed out that data was being collected to assess progress for school districts in achieving fiscal neutrality, vertical equity and horizontal equity. However, an initial review concluded that in 1992-93, lower wealth districts continued to receive substantially more revenue than under the previous foundation program.

The Subcommittee noted that hold harmless debate would probably not exist but for two factors: 1) the discovery of 4,000 more students than anticipated and the impact on the resources available; and 2) the legislature's failure to provide, as promised in the past biennial budget, a 5% increase each year for the basic support of students.

Exceptional Children Weights in SEEK - An official of the Department reported that, as required by KRS 157.360, the Department had undertaken a review of the exceptional children weights that are based on the pupil/teacher ratios formulated by the Office of Exceptional Children Services. The office is negotiating a contract with a national firm to develop a database designed to examine a number of issues on special education reform. The Department will have no recommendations on changing the ratios until that process is completed.

School Facilities Construction Commission

The Department and the School Facilities Construction Commission (SFCC) reported that since 1987, the total for bond sales, including state and local funding, is over \$1 billion. Since 1985, state appropriations for capital outlay total \$563 million, for the Facilities Support Program of Kentucky (FSPK) \$50 million, for the School Facilities Construction Commission \$49 million, for a total of \$663 million in state and local appropriations.

Unmet need is a primary factor in determining state appropriations and the priority of construction in local school districts. The Subcommittee noted that the growth in unmet need since 1986 is attributable to changes in school district qualifications for funding and space requirements, dictated through regulations and policies known as the "Gray Book".

The Department reported that a Local Planning Committee pilot program of 19 school districts has been implemented and that recommendations from this process will be used to revise regulations. Noting the growth of student populations in some regions of the state, the Subcommittee realized that the state has no program to accommodate emergencies and to provide financial assistance to growth districts.

Furthermore, state participation with local school districts in bonds has decreased from 71% in 1988-90 to 30% in 1991-92. The Subcommittee also discussed the need for restrictions on local funds for school construction. When school districts build extravagant facilities with local moneys, it was suggested, their unmet needs should be reduced accordingly. The Department recommended the state provide "disincentives" to overbuilding and overspending.

The Kentucky Educational Technology Funding Program

Forty million dollars was appropriated for the 1992-94 biennium. With all school districts having received the SFCC's offer of assistance, about \$19 million has been distributed to school districts ready to purchase technology this fiscal year. Districts are required to match the state's offer on a 50/50 basis and are permitted to expend moneys from the general fund, bond issues and unobligated construction interest money.

Offers of assistance during the first year were based on average daily attendance and were calculated at about \$35 per student. For the second year, offers will be based on unmet need certified by the State Board of Elementary and Secondary Education. The Subcommittee was told that the unmet need could possibly decrease in some districts, due to technology already in place.

The Superintendent's Selection Process

The Director of the OEA reported that OEA surveys school boards on the superintendent selection process, requesting information on the pool of candidates, selection procedures and the role of consultants. A guide for selection committees should be developed, and an amendment to KRS 160.352 to level the playing field between in-state and out-of-state candidates, may be forthcoming. Under the current law, in-state candidates for superintendent must complete the training program before selection, while superintendents relocating from out of state have a one-year grace period.

The Subcommittee heard anecdotal discussions on the superintendent selection process from the President of the Kentucky Association of School Superintendents, a representative of the Kentucky School Boards Association, a parent member from Scott County, and school board members from Floyd County and Jefferson County. These comments gave the Subcommittee a better feel for the process and highlighted the fact that more problems occur because of personality conflicts than the operation of the selection process.

Travel Expenses and Reimbursement in School Districts -

The Director of the OEA reported abuse of travel funds and credit cards among 13 local school districts previously investigated. Noting that the abuses ranged from the lack of documentation of travel expenses to fraudulent claims for expenses either not incurred or inflated, the Director stated that there is no current measure to evaluate how widespread the abuse is. Many of the districts had adopted stringent policies and procedures for travel approval, reimbursement, and credit card use. OEA recommends that some uniform voucher and per diem system be established for all school districts, in conformance with the state employees travel system.

The Professional Compensation Plan

The Department of Education is consulting with compensation experts and other state agencies to develop a compensation plan that must be approved by the State Board of Elementary and Secondary Education. The first draft will be presented at the state board's September 1993 meeting. Subcommittee members discussed the merits of a minimum salary schedule, the impact of performance and experience on salaries, and recruitment of teachers.

Budget Reductions

The Commissioner of the Department of Education discussed the recent budget cuts in the department and in local school districts. He reported that of the \$2.2 billion allocated to elementary and secondary education, \$1.8 billion are SEEK funds, which account for 83 % of the total expended for elementary and secondary education. SEEK was reduced by \$9 million, with administrative costs at the district level as the target of the cut. The new Kentucky Education Reform programs were not cut.

The Commissioner informed the Subcommittee that the department budget was also cut by 10%, or \$2.2 million. An area in which education reform could potentially be impaired is the Assessment Program. While the contract for the testing program was not cut, the number of staff assigned to work with teachers to develop the tests will be affected. Six department leadership positions and 13 out of 250 staff positions will be eliminated. Four directors will run the eight regional service centers. Furthermore, the \$31 million savings on health insurance can be attributed to the reduction in the state contribution to the reserve, allowing adjustments to local contributions.

Federally Funded Education Programs

Representatives from the Office of Special Instructional Services in the Department reported on the variety of federal programs conducted in Kentucky in accordance with the Elementary and Secondary Education Act, the Individuals With Disabilities Education Act, and the Carl D. Perkins Vocational and Applied Technology Education Act of 1990. Federal funding is disbursed to the state, which in turn distributes funds to approved local educational agencies that operate the program.

Department officials reported that during this fiscal year: the Chapter I programs received approximately \$115 million for programs for educationally disadvantaged students, including services for migrant, handicapped, neglected and delinquent children; Chapter 2 programs provided services to districts in targeted areas, and \$10 million in funding supplemented the cost of specialized programs, projects and studies, professional development and training, and academic competition; and Vocational Education programs received \$19 million to supplement programs on consumer education and homemaking, single parenting, and sex equity. Funding for Exceptional Children programs assisted in providing a free and appropriate education to children and youth with disabilities. The \$41.7 million allocation for FY 1993-1995 is determined by the Dec. 1 child count, and funding per child amounts to \$570 for preschool pupils and \$349 for pupils ages 3-21.

Subcommittee on Postsecondary Education and the Teaching Profession

The Subcommittee on Postsecondary Education and the Teaching Profession met four times to discuss the following issues:

Education Professional Standards Board

Representatives from the Department of Education and the Education Professional Standards Board appeared before the Subcommittee on several occasions to provide subcommittee members with an update on the Board's activities. Legislative proposals by the Board included the following recommendations: direct the Board to develop and implement by 1996, a results-oriented primarily performance-based system of teacher preparation, program approval and certification; authorize the Board to establish a fee schedule; expand the internship programs to include other professional education roles, such as guidance counselor and superintendent; provide for additional levels of disciplinary actions in revocation hearings, such as certificate suspension or reprimand; and allow a panel of no fewer than three members of the Board to take final action on revocation cases for the Board.

Speech-Language Pathologists

During the interim the Subcommittee heard testimony from a variety of speakers on the shortage and certification problems of Speech-Language Pathologists. KRS 334A.035 requires that a person serving in the public schools as a speech-language pathologist or audiologist after August 1, 1994 must have completed a master's degree in order to be certified. The university representative and the president of the Kentucky Speech and Hearing Association (KSHA) reported that the master's degree is considered the minimum level of preparation because of the variety and complexity of communication needs of children in the schools today. They explained that 43 states require school pathologists to obtain master's degrees. It was also pointed out that the master's degree curriculum includes the necessary additional coursework and clinical experiences.

The Subcommittee heard testimony on the difficulties that current pathologists with bachelor's degrees are encountering. These persons, already employed in the public schools, were issued provisional certificates valid until August 1, 1994. After August 1, 1994, the master's degree in speech pathology will be required for certification. Because state university funds are scarce and accredited programs are restricted to a 6:1 student/faculty ratio for master's level programs, the number of available spaces in master's programs are quite limited. For example, the University of Kentucky admits twelve new students to its two-year master's program each year. It was reported that these limitations on program admissions are causing problems for recent undergraduates who cannot get into master's programs and that persons already admitted are experiencing difficulty completing the master's degree by the 1994 deadline date.

The state is facing a severe shortage of speech-language pathologists, as is the rest of the nation. Department of Education staff explained that historically recruitment has been difficult, but in the last four years student interest has increased, while universities have cut back on program offerings. It was reported that fewer than twenty percent of master's degree recipients are interested in working in the public schools. Also, public school pathologists are leaving at an alarming rate to enter the private sector, because of higher salaries, less paperwork and smaller caseloads in the private and medical settings. Solutions to this problem were discussed and included: reconsider the August 1, 1994 deadline; create another level of certification for bachelor's degree holders; increase financial support for graduate programs; reduce the current caseload limit of 75; and increase efforts to retain the speech pathologists currently employed in Kentucky schools.

Professional Development

Department of Education staff presented an overview of the professional development activities that are now in place. It was reported that in the 1992-93 school year, 125 districts used all or part of the five additional days provided for professional development this biennium. In the 1993-94 school year, 131 districts are using all five days and 167 out of 176 districts are using at least one day. It was stressed that the focus of professional development has changed. It is now seen as a process of planning to help educators gain new skills and change behavior as students' learning increases.

Classified Employees

Senate Bill 235, enacted during the 1992 Session, required the Department of Education to study the benefits and conditions of employment of local school districts' classified personnel. The findings of this study were presented to the subcommittee by Department of Education staff.

The study found that classified employees are not treated uniformly from district to district, but that most of the benefits provided to certified employees are also provided to classified employees.

The study made the following recommendations:

(1) Amend KRS 161.011 to include language to require all local school districts to develop and provide, in writing, to all classified employees the terms and conditions of employment, regardless of employment status.

(2) Amend KRS 161.011 to require that all vacancies be advertised, as per policies developed by the local school board.

(3) Require the local districts to provide all employees, certified and classified, with a written discipline process that includes due process, a written evaluation system, and a written lay off plan, as developed by the local school board.

(4) Require the local school districts to provide all employees with documentation outlining their rights and fringe benefits, as provided by that local school district.

(5) Make the evaluation of certified and classified employees' job classifications, contracts, and rights notification a part of Kentucky Department of Education management audits.

(6) Provide training, if financially feasible, based on the districts' needs assessment, to include, at a minimum, CPR, suicide prevention, and abuse recognition.

Kentucky Higher Education Assistance Authority

The Kentucky Higher Education Assistance Authority appeared before the Subcommittee to submit drafts of proposed legislation for the 1994 Session. The legislation involved the following issues:

The College Access Program (CAP) was enacted by the 1990 General Assembly through language contained in the budget bill. CAP, Kentucky's largest grant program, provides grants to the very neediest college students. In 1992, the General Assembly continued funding. The suggested legislation would codify the program and eliminate the need to reauthorize the program every two years in the budget bill.

The Math and Science Loan Program and the Teacher Scholarship Program were created by the legislature to attract academically talented students and teachers of critical shortage areas to the teaching profession. Because the scholarship programs are similar, the 1990 and 1992 General Assembly combined the two programs in the budget bill. The proposed legislation would permanently merge the two programs and repeal the existing statutes.

Two proposed bills would make changes to conform with the 1993 federal budget act, allow changes in the collection of student loans by the Authority, and give the Authority flexibility for adding staff and delegating board functions to Authority staff.

The Subcommittee on Students and Curriculum

The Subcommittee on Students and Curriculum met twelve times through October, 1993. The Subcommittee considered the following topics:

Primary Program

The Subcommittee reviewed issues relating to the primary program throughout the interim. Representatives from the Department of Education outlined the agency's efforts to provide technical assistance and professional development activities, including training institutes, a district process for identifying and resolving obstacles, research dissemination, identification of best practices, and videos to assist elementary schools in the implementation of the primary program. All elementary schools (836) have submitted action plans. Among the problems noted by the department were integrating half-day kindergarten students into the full-day primary program, adapting to the school's grade organization, and identifying the criteria required for a child entering the fourth grade.

The Subcommittee heard testimony throughout the interim from instructional supervisors, teachers, principals, and representatives from the Prichard Committee, the Appalachian Educational Laboratory, the Kentucky Congress of Parents and Teachers, the Kentucky Association for the Education of Young Children, and the Kentucky Education Association. Among the problems cited were: more time for teacher training and planning, clarification of the critical attributes of the primary program, more money for teaching supplies, and the difficulties of integrating half-time five-year-olds into the full-time program. The positive aspects of the primary program mentioned were: teachers using new instructional approaches and receiving more quality training, student excitement about learning; and teachers holding higher expectations for students.

Extended School Services

Representatives from the Department of Education and a representative of a local district discussed the extended school services program. In FY 1991, \$21.4 million was spent to serve 34,003 students in the fall and 58,225 students in the spring semester. In FY 1992, \$28.7 million was expended to serve 62,438 students in the fall, 96,079 in the spring, and 20,750 during summer school. The \$32.7 million appropriated for FY 1993 was expected to serve 91,812 (an unduplicated count) during the regular school year and 35,821 students in summer school programs. The program has increased the availability of summer school: 37 school districts operated summer school prior to the program, while 140 districts planned to do so last summer. The department is collecting the data required by the budget memorandum. Seven school districts are mandating attendance as a result of 1992 HB 596.

Members heard concerns about the increased paperwork associated with the program. Another problem for local districts is the cost and logistics involved in transporting students home in the afternoon. The local district representative reported a positive response about the program from teachers who believe the program is helping students perform better academically.

Family Resource and Youth Services Centers

Representatives from the Cabinet for Human Resources presented a progress report on the implementation of the family resource and youth services program. In 1992-93, 222 centers served 414 schools in 103 school districts with \$15,476,500 in state funds. The centers served schools whose enrollments totaled 191,914 students; 89,515 of those qualified for the federal free lunch program. The staff has been developing an information management system and software package to aid in program evaluation.

Assessment and Accountability

The Commissioner of Education and staff from the Department of Education reviewed the accountability index and the formula for determining school and district thresholds. The accountability index is calculated using the scores from the annual assessment in the five cognitive areas and the non-cognitive index, made up of attendance, dropout, retention, and twelfth grade transition data. Each school will need to improve its accountability baseline index by ten percent to meet its threshold.

The Commissioner of Education and the Director of the Division of Accountability outlined the proposed method for determining whether a school receives rewards or sanctions. In order to qualify for a reward, the school must reduce the number of students at the novice level by ten percent and obtain an accountability index at least one point above the threshold goal. The minimum reward is fifty percent of the maximum. There are fifty-one reward levels, with the highest reward going to schools that exceed their threshold by one point plus 100% of the difference between the threshold and baseline goal. The actual amount of the reward will be based upon a percentage of the salary set by the General Assembly and the salaries of the certified staff assigned to the school on the last working day of the year of the reward. Sanctions will be applied to schools that fall below their expected thresholds.

Schools will be notified of their status in January, 1995. There will be between \$36 and \$40 million available for rewards. The fund was subject to budget cuts by the Department, as part of the state's effort to deal with the revenue shortfall.

School-based Decision Making

Representatives from two school councils discussed their experience with school-based decision making. One council discussed problems with the superintendent and the local board relating to the staffing allocation and the hiring of a full-time alternative classroom teacher. The principal's having to serve two masters, the superintendent and the council, was another concern. Representatives from a second council described ongoing changes and improvements. They recommend a strong committee system to involve more people, enhance continuity, and actively involve parents in the school's transformation. One problem is how to keep professional disagreements from becoming personal conflicts.

The Executive Director of the Kentucky Association of School Councils reported an increase in the number of councils focusing on improving curriculum and student performance. Most problems with district relations revolve around personnel issues and are being resolved locally. There have been questions about categorical programs not being included in the council budget, but this issue will be addressed in the future by regulation. Short timelines and the number of state-required plans are a concern.

Representatives from the Jefferson County Teachers' Association (JCTA) and the Jefferson County Public Schools (JCPS) discussed the differences between participatory management and school-based decision making. JCTA believes that shared decision making should be voluntary and that decisions concerning the composition and the chair of the council should be made at the school level. The organization also supports parental involvement, but believes the involvement should not be mandatory. The lack of participation in SBDM in Jefferson County was attributed to most schools having participatory management and teachers being overwhelmed with education reform. The representative for JCPS cited the district's commitment to shared governance and providing training for principals, teachers and parents. The district has worked closely with the department to merge participatory management and school-based decision making. The district supports more flexibility in the approval of alternative models.

The Department of Education staff presented the State Board for Elementary and Secondary Education's recommendation to the Legislative Research Commission concerning policies and procedures to ensure minority representation on school councils. The recommendation requests that the General Assembly amend KRS 160.345 to allow the state board to adopt an administrative regulation to ensure minority representation on school-based decision making councils. The Department plans to develop specific recommendations concerning the content of the regulation prior to the 1994 Session. The Department has also prepared a program review providing suggestions and strategies for schools and districts to use in increasing minority representation.

The Department of Education is working with pilot school districts to work out problems in allocating categorical funds to school councils, and it plans to revise the budget allocation regulation at the end of the coming school year. The Department is also developing a new training delivery system for school councils. A request for proposals will be issued to identify a network of providers certified to provide quality training. The Subcommittee has also heard concerns about parents having to pay dues in order to vote for their council representatives.

Textbooks and Instructional Materials

House Bill 545 (1992) makes districts, as opposed to the Department of Education, responsible for textbook and instructional material funds. The bill also permits the purchase of certain instructional materials with textbook funds. The Department of Education gave a progress report on the bill's implementation. The agency recommends the following legislative changes: transferring responsibility for rebinding textbooks to local districts; amending KRS 157.120, concerning requisitions and payment, to conform with other statutes; and transferring responsibility for granting waivers from the State Board for Elementary and Secondary Education to the Department of Education.

Academic Tracking

The Subcommittee heard testimony on academic tracking and ability grouping. A University of Kentucky professor summarized the research by saying there is professional disagreement on the issue. Many researchers believe that tracking results in lower expectations and a narrower educational experience for students in the lower tracks. Students assigned to lower tracks tend to perform much better in mixed ability settings. Some scholars believe that students in the upper tracks perform better in advanced classes, but other researchers say this is the result of having the best teachers and a more challenging, interesting curriculum.

The Subcommittee also considered the issue of meeting the needs of gifted and talented students in the primary program. The Department of Education is revising administrative regulations relating to the gifted and talented program, to conform with the requirements of multiage and multiability classrooms, continuous student progress, and developmentally appropriate classroom practices in the primary program. The Director of the Center for Gifted Studies at Western Kentucky University said that gifted and talented students require a curriculum and instructional grouping with their academic peers to enable them to learn at their own pace and full potential. She urged continued support and the expansion of appropriate services for these children. The Coordinator of Project Discovery works with twelve school districts in the Ohio Valley Education Cooperative. The project found that minority children and children from economically disadvantaged families were not being identified as gifted and talented. The project works with teachers to use other methods to identify and nurture talented students within classroom settings with their peers.

Distinguished Educator

The Commissioner of Education and staff gave a status report on the Kentucky Distinguished Educators program. These educators serve as teaching ambassadors and assist in department research and staff development efforts. They will also be available to serve in unsuccessful schools. This year, after conducting interviews, simulations, and site visits, the selection committee identified twenty-nine teachers and twenty-one administrators as

distinguished educators. Their training includes an orientation, eight weekend seminars, and a two-week institute next summer.

The Department raised concerns about whether the state or the district is fiscally responsible for a distinguished educator assigned to a school-in-crisis. Members also raised concerns about the inequity of reimbursing teachers on assignment to the Department for 175 days, while administrators are paid for an extended school year.

Distance Learning

Representatives from the Department of Education, the Council on Higher Education, the Department for Information Systems, and Kentucky Educational Television presented the Distance Learning Task Group's report. The vision for the plan is driven by KERA goals, not by technological advances.

One study recommendation is that the state sponsor research into the variables to be considered in selecting the appropriate technologies (distribution and levels of interactivity) to use for distance learning applications. The research would take the form of a model distance learning project, developed, implemented and evaluated based on KERA learning goals and learner outcomes. It is also recommended that three million dollars be made available on a competitive basis to implement the projects.

Collaborative for State Agency Children

Representatives from the Cabinet for Human Resources, the Department of Education, and the Collaborative for State Agency Children provided a progress report on the implementation of Senate Bill 260, which was designed to improve the quality of education for state agency children. The Department and the Cabinet have worked together to develop goals, objectives, and timelines for implementation. Eastern Kentucky University's training resource center was awarded the contract to establish the collaborative. An administrative regulation relating to operations, finance and governance of the Collaborative will be sent to the State Board for Elementary and Secondary Education for review in December and approval in January. Some legislative changes may be needed during the next session.

**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**

**Senator Walter Blevins, Co-Chair
Representative Paul Clark, Co-Chair**

Sen. Walter Baker
Rep. James Bruce
Rep. Larry Clark
Rep. Freed Curd
Rep. Bobby DeWeese
Sen. Ed Ford
Sen. Kelsey Friend
Rep. Leonard Gray
Rep. John Harper
Rep. Dave Hourigan

Sen. Gene Huff
Rep. Tom Jensen
Rep. Gross Lindsay
Sen. Joe Meyer
Sen. Rick Rand
Rep. Jody Richards
Sen. Eck Rose
Rep. Martin Sheehan
Sen. Gex Williams

LRC STAFF: Rob Williams and Wilda Bond

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

INTERIM JOINT COMMITTEE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS

JURISDICTION: matters pertaining to 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 purgation of voters; conduct of regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; and absent ballots.

COMMITTEE ACTIVITY

The Interim Joint Committee on Elections and Constitutional Amendments held five meetings during the 1992-93 interim. No subcommittees were created during that time. At its first meeting, in August 1992, the committee reviewed the recommendations of the LRC's Special Commission on Constitutional Review, first offered in 1987, and generally discussed the evolution and character of Kentucky's four Constitutions. The committee heard that the first Constitution was a set of general principles and guidelines for governmental organization and function, while our current Constitution is a document of tremendous detail, reflective of the political atmosphere at the time of adoption, which has not always proved sufficiently flexible for courts to adhere to a literal interpretation of its provisions when applying them to modern circumstances. The committee debated the merits of having a constitution that provides a general framework for the treatment of an issue, which could be fleshed out in detail later by the enactment of specific laws, which are more easily amended if conditions require it.

At its second meeting, in October 1992, the committee received testimony from the Attorney General's office describing enforcement of election fraud laws, from the State Board of Elections describing efforts to increase the number of registered voters in the state, and from the Registry of Election Finance regarding its implementation of the campaign finance package that was enacted during the 1992 Regular Session. Testimony indicated that vote fraud still exists and is being actively prosecuted, but is less readily visible than in the past, making enforcement more difficult. The number of eligible voters registered prior to the November 1992 election was at the highest level since 1976, with over two million voters registered. The increase was attributed to several factors, including heightened interest in the presidential and congressional elections and both public and private efforts to register persons to vote. The Secretary of State noted that the next logical step would be to find ways to increase voter turnout and indicated that some legislative proposals to help accomplish that goal would be presented to the 1994 General Assembly. Implementation of campaign finance reform legislation, which tightened limitations on campaign financing and strengthened the Registry's enforcement abilities, was proceeding smoothly and was expected to be complete by the end of 1992. Indicative of the effort underway at the Registry was the promulgation of seven administrative regulations concerning newly-delegated enforcement powers, such as the issuance of advisory opinions, the conduct of

conciliation agreements to resolve campaign finance improprieties without going through a hearing, and the exemption of a substantial number of candidates from reporting requirements if they spend little on their campaigns. The Registry indicated that it would seek legislative refinement of some areas of the campaign finance laws in 1994.

At its third meeting, in December 1992, the committee began its study of recommendations for constitutional revision by examining the proposals of the Special Commission's Subcommittee on Private Corporations, which were presented by the subcommittee's chair. He presented clear examples of the restrictions of the overly specific and antiquated nature of some of the Constitution's provisions, notably those concerning private corporations, common carriers, utilities, and the railroads. Testimony indicated a need for Kentucky to be in compliance with the Model Business Corporations Act, which has been adopted by most states. While Kentucky's corporate statutes are in conformity with the Model Act in most areas, some statutes have been passed which are in contravention to our constitutional provisions. The subcommittee chair explained that repealing most of the constitutional provisions relating to corporations and enacting a grant of authority to the General Assembly to enact statutes to govern corporate affairs as necessary would permit Kentucky to adopt the Model Act with no constitutional barriers, and Kentucky courts would have the benefit of the development of the interpretation of the Model Act in other states for precedential value, which might engender a more stable business climate in Kentucky. Testimony also indicated that the constitutional provisions relating to common carriers, railroads, and utilities were preempted by provisions of federal law or were antiquated by virtue of the fact that they have little to do with the way those entities conduct their affairs in modern times, so those sections could be repealed with no adverse effect.

At its fourth meeting, in August 1993, the committee received recommendations for legislative proposals for the 1994 Regular Session from the Registry of Election Finance, the State Board of Elections, the Secretary of State's office, and the Kentucky County Clerks' Association. The Registry presented twenty-six proposals for clarification of the campaign finance statutes, which were assigned for study to a five-member work group of the committee. The State Board briefed the committee on the requirements of the National Voter Registration Act of 1993, commonly called the "Motor-Voter" law, which would require states to permit citizens to register to vote at the same time they applied for drivers' licenses, or for government assistance for the indigent and disabled, or visited armed forces recruiting offices. The Secretary of State requested that consideration be given to deleting the requirement that his office publish the full text of proposed constitutional amendments in the state's largest newspapers and permitting them to publish a summary instead. The Kentucky County Clerks' Association suggested prohibiting persons from filing as candidates for local office until the year in which the election for those offices would be held.

At its fifth meeting, in October 1993, the committee received a bill draft containing most of the recommendations for legislative changes to the campaign finance laws which were proposed by the Registry of Election Finance at the August meeting. No action was taken on the bill draft, but the members were provided a summary of its provisions and were advised that it would see early committee action once the session begins. The committee also reviewed thirteen administrative regulations which had been promulgated by the Registry.

The committee approved the following administrative regulations as conforming with statutory authority:

- 32 KAR 2:020 General Provisions
- 32 KAR 2:030 Complaints; internally-generated matters
- 32 KAR 2:040 Preconciliation procedures
- 32 KAR 2:050 Conciliation
- 32 KAR 2:060 Advisory opinions
- 32 KAR 2:070 Fundraiser registration
- 32 KAR 2:080 Political activities of registry members and employees
- 32 KAR 2:090 Permanent committees, registration and fees
- 32 KAR 2:100 Post-election and supplemental reports
- 32 KAR 2:110 Disclaimers
- 32 KAR 2:130 Cash contributions, cashier's check, and money orders
- 32 KAR 2:140 Revocation of exemption forms, reversion rights; August filers

The committee found the following administrative regulation deficient:

- 32 KAR 2:150 Three judge panel; appointment; procedure.

**REPORT OF THE 1992-93
SPECIAL SUBCOMMITTEE ON ENERGY**

Representative Rex Smith, Chair

Rep. Royce Adams
Rep. Woody Allen
Rep. Eddie Ballard
Sen. Charlie Borders
Sen. David Boswell
Rep. Mike Bowling
Rep. Ron Cyrus

Sen. Ed Ford
Rep. Drew Graham
Sen. Virgil Moore
Rep. Charles Nelson
Sen. Rick Rand
Rep. Richie Sanders
Rep. James Zimmerman

LRC STAFF: Linda Kubala, Mary Lynn Collins, John Buckner, Ph D., and Terisa Roland

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SPECIAL SUBCOMMITTEE ON ENERGY

JURISDICTION: matters pertaining to privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development, including synfuels; energy waste disposal; the Public Service Commission; solar and other renewable energy; hydroelectric and thermonuclear energy; and gasohol.

SUBCOMMITTEE ACTIVITY

The Legislative Research Commission established the Special Subcommittee on Energy on April 7, 1993, to reflect changes made in committee jurisdiction during the 1993 Organizational Session. Membership was drawn from the Senate Agriculture and Natural Resources Committee and the House Tourism and Energy Committee. Prior to creation of the Subcommittee, energy and utility issues were taken up during the interim by the Tourism Development and Energy Task Force. The Task Force met six times during the interim and the Special Subcommittee met seven times. This report includes discussion of activities of both groups.

Energy Efficiency in Government Facilities

Early in the interim the Task Force considered how the state could reduce energy use in its own buildings. An official of Montana state government testified about Montana's comprehensive energy management plan. A representative of a private energy management company discussed other funding mechanisms, instead of a General Fund appropriation or a bond issue, to finance energy retrofits.

Officials from the Energy Division of the Natural Resources and Environmental Protection Cabinet periodically updated the Task Force, and later the Subcommittee, on efforts to make state buildings more energy efficient. The division estimates that state government, which spends over \$40 million annually to heat and cool state buildings, could reduce its costs by as much as 25% by implementing a variety of energy efficiency measures. The chair of the Capital Planning Advisory Board (also a member of the Subcommittee) kept members updated on the work of the Capital Planning Advisory Board on the same issue. Late in the interim the chair of the Capital Planning Advisory Board and the director of the Energy Division jointly presented a legislative plan to make government buildings more energy efficient. As presented, the plan calls for a unit in the Department for Facilities Management to identify and complete energy retrofits that have an estimated payback of five years or less. In addition, the plan would set up a revolving loan program for energy retrofits in local government buildings and require more energy efficiency in rental property and new construction.

In related activity, the Task Force requested information on lighting use in the Capital Annex parking garage and asked the Governor to include energy conservation in the work of his task force on efficiency in state government.

Low-Income Home Energy Assistance Program

As part of the state review process of federal block grant plans, the interim committee with jurisdiction over energy matters annually reviews the plan for distributing funds in the Low-Income Home Energy Assistance Program (LIHEAP), holds a public hearing, and reports findings to the Legislative Research Commission. The program is administered at the state level by the Department for Social Insurance. However, through contractual agreements with the Kentucky Association for Community Action, the program is locally run by the 23 community action agencies located throughout the state. In the summer of 1992, the Task Force held a public hearing and completed its review of LIHEAP with little public debate. During the winter of 1993, however, several complaints and newspaper articles prompted the State Auditor's Office to investigate programs run by the Leslie, Knott, Letcher, and Perry Community Action Agency and the Bell/Whitley Community Service Agency.

The issues identified and the recommendations made by the Auditor's Office in its subsequent report became the focus of three Subcommittee meetings. In April of 1993, state auditors presented their report on the LIHEAP program. Based on their review of the program in the two community action agencies, the Auditor's Office found: (1) inconsistent and inadequate fuel vendor bid procedures, with little protection against conflict of interest; (2) lack of a uniform system of verifying the amount of fuel delivered to program clients; and (3) an inadequate complaint system for clients. The Commissioner for Social Insurance and the Executive Director of the Kentucky Association for Community Action Agencies appeared at the next Subcommittee meeting to respond to the Auditor's report. The Commissioner for Social Insurance presented a plan to correct problems identified by the Auditor's Office. The Subcommittee held a public hearing on the 1994 plan for LIHEAP on July 15, 1993. Most of the discussion during the public hearing focused on new provisions in the contract between the Department and the Kentucky Association for Community Action, with one community action director objecting strenuously to those provisions. The Subcommittee approved the plan, but asked the Department to incorporate language into the state's LIHEAP application to insure receipt of the maximum amount of federal leveraging funds.

Public Service Commission

Early in the interim the Public Service Commission brought two regulatory issues before the Task Force. The Federal Office of Pipeline Safety canceled the Kentucky Public Service Commission's contract to inspect interstate pipelines running through Kentucky, because the Commission lacks safety jurisdiction over municipal gas utilities. In order to reestablish its interstate inspection program, legislation is needed to give the Public Service Commission safety jurisdiction over municipal gas utilities. The other issue considered was the placement of cellular radio-telephone antennas. The placement of these facilities often is of local concern, but the statutes exempt them from local zoning control.

During the last two meetings of the interim, the Public Service Commission presented to the Subcommittee its legislative package for the 1994 Session. The package was made up of 14 proposals, some of which contained minor changes and were described by the commission as "housekeeping". Some of the more substantial proposals discussed by the Subcommittee would:

(1) authorize the Commission to review demand side management plans, including energy conservation initiatives, and provide utilities a mechanism to recover revenues lost by implementing demand side management plans; (2) give the Commission specific authority to deny a certificate of public convenience and need when the public's need is capable of being met by existing facilities not regulated by the Commission; (3) consolidate all statutes applicable to interest on customer deposits to end confusion over whether water districts and associations may pay less than the six percent interest required of other regulated utilities; (4) place municipal gas utilities under commission jurisdiction for safety regulation only; (5) allow the Commission to appoint a receiver for a grossly mismanaged or abandoned utility; and (6) change the Commission's funding mechanism from a General Fund expenditure to a trust and agency account.

The Task Force, also reviewed one Commission administrative regulation, 807 KAR 5:066, concerning water utilities, which went into effect without task force objection.

Telecommunications

The Task Force, and later the Subcommittee, considered the myriad of changes occurring in the area of telecommunications. The Task Force was briefed on a project to construct two pilot telecommuting centers near Pikeville and Elizabethtown. In August of 1993, the Subcommittee met jointly with the Interim Joint Committee on Economic Development at the Telecommunications Research Center in Louisville. There they participated in a teleconference with representatives from North Carolina. Members were told about North Carolina's current effort to develop a fiber-optic network that will go to every school, hospital, library, prison, and government building. This network will be a superhighway for high-speed transmission of voice, video, and data.

At this same meeting the Secretary of the Finance and Administration Cabinet briefed members on the broad band information network proposed for Kentucky. The Cabinet issued a Request for Information (RFI) on October 15, 1993, to gather information from potential vendors regarding development and management of the network. Much of the discussion during this meeting focused on the issue of who would build the network and how it would be paid for. The state could build its own private network; a private company or group of companies could build the network, with the state being the network's largest tenant; or the existing public switched network system could be upgraded to provide the statewide information highway. The Vice-Chairman of the Public Service Commission discussed regulatory issues relating to the proposed backbone network and warned that if state government pulls out of the existing public switched network it is on now, other rate payers will have to pay more to maintain the system. Various other speakers participated by describing current uses within the state of compressed video and other technologies and by pointing to the educational and economic opportunities that a new broadband network will bring.

At a later meeting, the Subcommittee voted to recommend that the Long-Term Policy Research Center take up telecommunications as an issue for policy development.

Federal Initiatives

Soon after the passage of the Energy Policy Act of 1992 and the Cable Television Consumer Protection and Competition Act of 1992, the Task Force received staff briefings on them. Cable television regulation was taken up again later in the interim and is further discussed below.

Officials from the Tennessee Valley Authority (TVA) testified on their amended plan to comply with the Clean Air Act Amendments of 1990. They decided not to burn Wyoming coal at their Gallatin Fossil Plant as originally planned. Instead they are switching to a medium sulfur Eastern U.S. coal for Gallatin. Depending on results of test burns currently being conducted, they will blend Powder River Basin (PRB) coal with regional coal at several other plants. The TVA officials, testifying that the changes would have a positive impact on regional coal fields, estimated that approximately 500,000 more tons of regional coal would be burned annually under the modified strategy.

The Subcommittee sent a letter to the Kentucky congressional delegation urging them to oppose the Btu tax proposed by the Clinton administration. That proposal was later modified to a gasoline tax before it was enacted by Congress.

Regulation of Cable Television

Partly as a result of a request by the city of Paintsville, the Subcommittee devoted most of its last meeting of the interim to cable television regulation. The federal cable television law enacted in 1992 allows states to restructure cable TV regulation, which in this state currently lies at the local level. The Chairman of the Massachusetts Cable Television Commission explained how his state and others currently regulate cable. He pointed to Alaska, Connecticut, Delaware, Hawaii, Nevada, Rhode Island, and Vermont as states that regulate cable and act as the sole franchising authority. Massachusetts, New Jersey, New York, and West Virginia, on the other hand, share their regulatory authority over cable with local government.

**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE**

**Senator Benny Ray Bailey, Co-Chair
Representative Tom Burch, Co-Chair**

Sen. Tom Buford
Sen. Henry Lackey
Sen. Joseph Pendleton
Sen. John Rogers
Rep. Stanton Cave
Rep. Jesse Crenshaw
Rep. Bob DeWeese
Rep. Porter Hatcher, Jr.
Rep. Paul Mason
Rep. Stephen Nunn
Rep. Tom Riner
Rep. Tommy Todd

Sen. Susan Johns
Sen. Gerald Neal
Sen. Richard Roeding
Sen. Gex Williams
Rep. Paul Clark
Rep. Robert Damron
Rep. Bill Donnermeyer
Rep. Bob Heleringer
Rep. Ramsey Morris
Rep. Ruth Ann Palumbo
Rep. Ernesto Scorsone
Rep. Mike Ward

LRC STAFF: Dianna McClure, Bob Gray, Susan Warfield, Robert Jenkins, Mary Norris, Tonya Ashcraft and Rebecca Crawley

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON CHILDREN WITH DISABILITIES

Representative Ruth Ann Palumbo, Chair

Representative Ramsey Morris, Vice Chair

Sen. Joseph Pendleton

Rep. Stanton Cave

Rep. Bob DeWeese

Rep. Tom Riner

Sen. Richard Roeding

Rep. Robert Damron

Rep. Bill Donnermeyer

Senator Benny Ray Bailey, Ex-Officio

Representative Tom Burch, Ex-Officio

SUBCOMMITTEE ON FAMILIES AND CHILDREN

Representative Tom Burch, Chair

Sen. Tom Buford

Sen. John Rogers

Rep. Paul Mason

Rep. Ernesto Scorsone

Rep. Mike Ward

Sen. Gerald Neal

Rep. Jesse Crenshaw

Rep. Stephen Nunn

Rep. Tommy Todd

Senator Benny Ray Bailey, Ex-Officio

**SUBCOMMITTEE ON QUADRENNIAL REVIEW
OF ADMINISTRATIVE REGULATIONS**

Senator Henry Lackey, Chair

Representative Mike Ward, Vice Chair

Sen. Gerald Neal

Rep. Porter Hatcher, Jr.

Rep. Paul Mason

Rep. Paul Clark

Rep. Bob Heleringer

Senator Benny Ray Bailey, Ex-Officio

Representative Tom Burch, Ex-Officio

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

COMMITTEE 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

The Interim Joint Committee on Health and Welfare held 17 meetings through October 31, 1993. Topics reviewed by the Committee included:

1. Implementation of the Cabinet for Human Resources Program for Children with Severe Emotional Disabilities and their families;
2. Implementation of Family Resource and Youth Service Centers;
3. Update on locating missing children in Kentucky;
4. Implementation of the Kentucky Community Cancer Control Program and the Kentucky Cancer Registry;
5. Selected Medicaid cost drivers: Approaches to cost reduction and cost containment;
6. Medicaid fraud and abuse referrals to the Attorney General's Office;
7. Visitation rights for grandparents;
8. Hospital personnel compliance with 1990 House Bill 425, relating to AIDS educational requirements;
9. Health insurance coverage for infertility services;
10. Implementation of 1988 House Bill 50, relating to blood donations;
11. A values framework for the U. S. Health Care System: Implications for Kentucky;
12. Civil rights issues for mentally ill persons as a consideration during health care reform;
13. Uses of mediation and arbitration in medical malpractice disputes; and
14. The Cabinet for Human Resources' legislative proposals for the 1994 Regular Session.

During the months of April and May, 1993, the Committee held four days of public hearings on Governor Jones' Health Care Reform Bill. In May 1993, a Special Session on Health Care Reform was held. The General Assembly subsequently enacted House Bill 1, which imposed a tax on the gross revenues of certain health care providers; established a state Health Care Data Commission; and created a 25-member legislative Task Force on Health Care Reform. Four of the five members of the Kentucky Health Care Data Commission were confirmed by the Senate during a Special Session in August 1993.

Pursuant to KRS 13A.290, the Committee was referred for review 145 proposed new administrative regulations or amendments to existing regulations.

The Committee reviewed and approved three Executive Reorganization Orders affecting the Cabinet for Human Resources: Executive Reorganization Order 92-419, which abolished the Commission for Health Economics Control in Kentucky and established within the Office of the Secretary for Human Resources an Interim Office of Health Planning and Certification; Executive Reorganization Order 92-623, which restructured the Department for Employment Services to reduce the number of internal divisions from four to three by abolishing the Division of Training and Employment; and Executive Reorganization Order 92-625, which established the Department of Law and abolished the Office of Counsel within the Cabinet for Human Resources.

The Committee held public hearings on the following Cabinet for Human Resources administered federal block grant proposed applications for state or federal fiscal year 1992-1993:

Community Mental Health Services,

Maternal and Child Health Services,

Child Care and Development,

Preventive Health and Health Services,

Community Services,

Social Services, and

Alcohol, Drug Abuse and Mental Health.

The Community Mental Health Services, Maternal and Child Health Services, Social Services, Alcohol, Drug Abuse and Mental Health, Child Care and Development, and Community Services applications were approved as submitted.

Questions were raised about the Preventive Health and Health Services proposed application. Members thought the application gave the incorrect perception that PH&HS funds were being spent to provide HIV education. Dr. Reginald Finger agreed to revise the application to show that only state funds are earmarked for HIV prevention education.

Subcommittee on Children With Disabilities

The Subcommittee on Children With Disabilities held six meetings through October 31, 1993. Issues considered by the Subcommittee included:

1. Children who suffer from Attention Deficit Disorder (ADD) and Attention Deficit Hyperactivity Disorder (ADHD), including an overview of ADD and ADHD and the problems experienced by children diagnosed with these conditions;
2. The difficulty experienced by parents of ADD children in obtaining a proper medical diagnosis of ADD;
3. The failure of health insurance to cover treatment for ADD because it is not considered a medical condition under the policy;
4. The waiting list in the Alternative Intermediate Service Program for the Mentally Retarded (AIS/MR)--there are over 300 people now in intermediate care facilities for the mentally retarded who are awaiting placement in the AIS/MR program;
5. The problems experienced by parents of disabled children, particularly mentally disabled children, in obtaining educational services from local school districts;
6. The lack of supportive services available to families of disabled children, and the problem of the families needs not fitting into existing programs or eligibility criteria;
7. A review of the legal rights of families of disabled children and an overview of the services provided by the Department of Protection and Advocacy to families;
8. The problems encountered by the Department of Education in assisting local school districts in providing appropriate educational services to disabled children, and monitoring compliance with state and federal laws relating to the education of disabled children; and
9. An overview of the Supportive Living legislation (KRS 210.770 to 210.795) enacted by the 1992 Kentucky General Assembly.

The subcommittee did not recommend legislation for consideration for pre-filing by the full committee. However, there are several actions the Subcommittee explored to improve services for disabled children.

- Increase the awareness in the medical and educational communities of Attention Deficit Disorder and its associated behavior;
- Provide more training to teachers to recognize such disabilities as ADD, so that appropriate educational services can be provided;
- Increase the slots in the AIS/MR program, to allow additional persons with mental disabilities to be served in a community-based setting;

- Improve efforts by the Department of Education to provide appropriate instructional services to disabled children;
- Expand state activities to provide support and coordination of services for families with disabled children; and
- Expand the Supported Living Program, enacted in the 1992 General Assembly, to increase independent living and employment opportunities for disabled persons.

Subcommittee on Families and Children

The Subcommittee on Families and Children held nine meetings through October 31, 1993. Issues considered by the Subcommittee included:

1. Staffing concerns of the Department for Social Services, including unreasonable caseloads, inadequate salaries, and a cumbersome hiring process;
2. Admission and exit criteria for Medicaid eligible children in psychiatric facilities, as administered by Mental Health Management of America, now doing business as Mental Health First;
3. Expansion of the Family Preservation program to additional counties, using the funding increase appropriated by the 1992 General Assembly;
4. Appropriateness of corporal punishment in religiously affiliated private child care facilities;
5. Opportunity to expand participation in the federal Child Care Food Program by including family foster care homes;
6. The second year evaluation of the Kentucky IMPACT program for children with emotional disabilities;
7. Barriers to enforcement of child support orders;
8. The amended administrative regulations for child day care facilities; and
9. Concerns and legislative action needed regarding child sexual abuse.

The Subcommittee devoted several meetings to the issue of child sexual abuse and received legislative proposals from the Attorney General's Task Force on Child Sexual Abuse.

The Task Force recommendations would:

- implement a sexual offender registry;
- increase victim advocates available in Commonwealth's attorneys offices;

- create a state multidisciplinary team to track the investigation and prosecution of child sexual abuse cases;
- require pre-sentence evaluation of sexual offenders;
- prohibit interference with reporting child sexual abuse;
- require consideration of child sexual abuse allegations in child custody deliberations;
- define the statute of limitations for civil action for child sexual abuse victims;
- define professional licensure boards' responsibility when allegations of sexual misconduct arise for teachers, physicians, nurses, psychologists, and social workers;
- revise testimony requirements for victims;
- include deviate sexual intercourse in incest criminal statute;
- implement a statewide child sexual abuse awareness and prevention education campaign;
- increase the number of family service workers; and
- require, when treatment for mental health services is reimbursed under health insurance, that psychologists and social workers be included as providers.

Subcommittee on Quadrennial Review of Administrative Regulations

The Subcommittee on Quadrennial Review of Administrative Regulations held four meetings through October 31, 1993, to review regulations assigned to the Committee's jurisdiction pursuant to KRS Chapter 13A.

One hundred and thirty-five regulations were determined to require the quadrennial review process to determine compliance with statutory requirements. These regulations must be reviewed and those not in compliance may be amended by the Cabinet. Regulations found deficient and not enacted as law will sunset after the close of the 1994 Regular Session. An executive agency is prohibited from promulgating new regulations substantially similar to regulations which sunset.

Of the 135 regulations identified for review, the Cabinet determined that many are not in compliance and it is in the process of amending them. The Cabinet has withdrawn 26 of the 135 regulations identified, and will submit amended versions by January 15, 1994, for the regular process of amendment.

In anticipation of action by the General Assembly in the 1994 Regular Session, the Subcommittee on Quadrennial Review decided to delay the review of all 58 health-related regulations due to be reviewed. Should the General Assembly pass health care reform legislation, these regulations may be significantly affected.

The Subcommittee on Quadrennial Review reviewed 51 regulations and identified substantive problems with one and technical corrections necessary for 35. It determined that 15 require no changes. The Cabinet agreed to amend the former to bring them into compliance.

**FINAL REPORT OF THE 1992 - 1993
INTERIM JOINT COMMITTEE ON JUDICIARY**

**Senator Kelsey Friend (Co-chair)
Representative Louis Johnson (Co-chair)**

Rep. Jon Ackerson	Rep. Thomas Kerr
Rep. Charles Berger	Sen. Henry Lackey
Rep. Mike Bowling	Rep. Richard Lewis
Rep. Jeffrey Buis	Rep. Gross Lindsay
Rep. Stan Cave	Sen. Mike Moloney
Rep. Jesse Crenshaw	Sen. Tim Philpot
Rep. Herbie Deskins	Rep. Frank Rashe
Rep. Danny Ford	Rep. Steven Riggs
Rep. Charles Geveden	Sen. Landon Sexton
Rep. Bob Heleringer	Rep. Dave Stengel
Sen. David Karem	Sen. David Williams

LRC STAFF: Norman Lawson, Jr., Pat Hopkins, Scott Varland, and Mac Lewis

**PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

INTERIM JOINT COMMITTEE ON JUDICIARY

COMMITTEE 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, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks 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

The Interim Joint Committee on Judiciary had three meetings during the 1992-93 interim. At its first meeting the committee heard discussions of 1992 HB 896, which was a proposal by the Cabinet for Human Resources to further regulate adoption practices and to eliminate private attorneys from the adoption process.

Cabinet representatives described the details of the legislation, which did not pass during the 1992 regular session. They were followed by private attorneys engaged in the adoption process, parents who had given their children up for adoption, adoptive parents, and representatives of child placement agencies, who described what they felt were defects in the legislation and the adoption process. It was generally agreed that suggestions would be drawn up on legislative format by the Cabinet for Human Resources and by LRC staff for later discussion.

The second meeting of the committee heard testimony from a citizen who described his problems with returning a misdemeanor criminal defendant who had fled the state to Kentucky. He indicated that although theoretically criminal misdemeanants could be returned to Kentucky from out of state, in actuality there was little interest on the part of law enforcement authorities or prosecutors in doing so. He urged that legislation be enacted to make it easier to return misdemeanor criminal defendants to the state for trial.

The Committee again took up the matter of suggestions for improving the adoption process. Suggestions were made by the Cabinet relating to including fathers in the termination of parental rights process and to improvements in this process, re-inserting language allowing attorneys to engage in adoption practice, with the permission of the Secretary of Human Resources, and clarifying reports to the court about moneys spent during the adoption process. Other topics of consideration included limitations on the amount of time a child must spend in a neutral home, requiring the Cabinet for Human Resources to adopt a pre-approval process for adoptive parents, and specifying that when a prospective parent is approved to adopt a child and

the initial adoption is not carried out, that the same information and approval may be used for the adoption of another child within a period of 6 months. Adoption attorneys and others made known their views on the suggested language. No final action was taken. However, a drafting session was scheduled to permit all interested parties to have input into a combined bill draft.

In the third meeting of the committee the first item for discussion was 1994 RS BR 110, which provides for concurrent jurisdiction over the Federal Correctional Facility at Manchester, Kentucky. Appearing on behalf of the bill were a representative from the Federal Bureau of Prisons, the Warden of the Manchester Facility, an Assistant U.S. Attorney, the county attorney, and the Commonwealth's Attorney.

The warden described his facility as a \$72 million, 1,400 bed facility housing minimum and medium security federal prisoners and located at Manchester, Kentucky. He indicated that jurisdiction over offenses committed at the prison is now Kentucky's and it is the desire of the federal government to take responsibility for its inmates through the passage of legislation for concurrent jurisdiction. Under this proposal, both the state and federal government, or either one separately, can try offenders for offenses committed on federal property.

The Assistant Commonwealth's Attorney indicated that Clay County is limited in prosecutorial resources and in funding and is already processing 190 indictments a year resulting in limited trial dates and times. He further indicated that obtaining jurisdiction over a federal prisoner to bring him to a hearing and/or trial is a difficult and lengthy process.

The County Attorney indicated that he is part-time, and that he has only one part-time assistant, and that there is an existing backlog of criminal cases which would only be made worse by having to try federal prisoners.

The bill was reported favorably for prefiling.

**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE
ON LABOR AND INDUSTRY**

**Senator Tom Smith, Co-Chair
Representative Ron Cyrus, Co-Chair**

Sen. Kelsey Friend
Sen. Gene Huff
Sen. Henry Lackey
Sen. David LeMaster
Sen. Danny Meyer
Sen. Tim Philpot
Sen. John Rogers
Sen. Tim Shaughnessy
Sen. David Williams
Rep. Rocky Adkins
Rep. Mark Brown
Rep. Jo Bryant

Rep. Denver Butler
Rep. Paul Clark
Rep. Hubert Collins
Rep. Donald Farley
Rep. Walter Gee
Rep. Tom Jensen
Rep. Clayton Little
Rep. Charles Nelson
Rep. Fred Nesler
Rep. Stephen Nunn
Rep. Mark Treesh
Rep. James Wayne

LRC STAFF: Linda Bussell, Vinson Straub, Biff Baker and Sandra Morris

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

**SUBCOMMITTEE ORGANIZATION
AND MEMBERSHIP**

**EMPLOYMENT STANDARDS
AND LABOR RELATIONS**

Rep. Rocky Adkins, Chair
Rep. Paul Clark
Rep. Hubert Collins
Sen. Gene Huff
Sen. Kelsey Friend
Rep. Tom Jensen
Sen. David LeMaster
Rep. Clayton Little
Sen. Danny Meyer
Rep. Fred Nesler
Rep. Stephen Nunn
Sen. Tim Philpot
Rep. James Wayne
Sen. David Williams

**JOB TRAINING, LICENSING,
AND APPRENTICESHIP**

Rep. Mark Brown, Chair
Sen. Henry Lackey
Rep. Jo Elizabeth Bryant
Rep. Denver Butler
Rep. Don Farley
Rep. Walter Gee
Rep. Preacher Nelson
Sen. John Rogers
Rep. Mark Treesh

EX-OFFICIOS MEMBERS OF ALL SUBCOMMITTEES

**Sen. Tom Smith
Rep. Ron Cyrus**

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

COMMITTEE ACTIVITY

COMMITTEE 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; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

The Interim Joint Committee on Labor and Industry held 13 meetings during the 1992-93 interim. The Committee began meeting in June, 1992. Several items were discussed at the first meeting. Two study resolutions enacted by the 1992 General Assembly were assigned to the Committee by LRC. The Director of the Unemployment Insurance Division, the Branch Manager for Tax Collections and Accounting, and the Branch Manager for Research and Statistics explained HCR 16, a study resolution requiring a study of the methods used to classify employers for purposes of unemployment insurance contributions. The study was assigned to the Subcommittee on Job Training, Licensing, and Apprenticeship, for completion by October, 1993. HCR 10, a study resolution on part-time employment, was assigned to the Subcommittee on Employment Standards and Labor Relations. An administrative regulation relating to wages and hours, 803 KAR 1:063, which authorized a "trading time" provision, was presented by a member of the Labor Cabinet and reviewed by the Committee. Another administrative regulation, 803 KAR 25:011, pertaining to the procedures that attorneys must follow in workers' compensation cases, was explained by the Commissioner of the Department of Workers' Claims. The Commissioner also summarized a draft administrative regulation which contained a hospital fee schedule for workers' compensation.

An attorney with the Department of Insurance gave a report on a proposed residual market rate increase of 21.6% for employers in the Kentucky Workers' Compensation Insurance Plan (KWCIP), the assigned (high) risk pool.

The following administrative regulations were reviewed at the July meeting: 803 KAR 2:307, the new federal OSHA standard regarding preventing or minimizing the dangers associated with handling highly hazardous chemicals; and 803 KAR 6:010, which governs the matching grant program administered by the Office of Labor-Management Relations.

The Committee discussed the Labor Cabinet's role in resolving labor disputes and was updated on the labor dispute at the Fischer Packing Plant in Louisville. The Committee agreed to send a letter to the Office of Economic Development, advising that the Committee would disapprove of offering any incentive to any company that does not provide good jobs to Kentuckians. The Committee also agreed to send a letter to the Department of Personnel to encourage a change in its interpretation of a state statute which related to health insurance for beneficiaries of city and county retirees.

Other topics discussed included a proposed workers' compensation rate increase of 42% for coal employers in the KWCIP, an executive order reorganizing the Department for Employment Services, and a staff memo stating that Kentucky's unemployed qualified for another 20 weeks of unemployment insurance benefits.

The third meeting, held in August, included a presentation by the Secretary of the Cabinet for Human Resources on the inclusion of workers' compensation medical costs in the Governor's health care reform effort.

An overview of the proposed workers' compensation rate increase for coal employers in the KWCIP was given. After discussing this issue, the Committee approved two motions. The first motion required the Department of Insurance to work with LRC staff to develop a staffing plan and a budget which would ensure an adequate review of workers' compensation rates by the Department of Insurance. The second motion directed LRC staff to request on behalf of the Committee that the Attorney General intervene in the pending workers' compensation rate filing.

Chamber of Commerce representatives briefly explained the Chamber's "Project 21" activities dealing with issues the Commonwealth will face in the next century. Committee members urged the Chamber to stress the value of job training, vocational preparation, and skills upgrading.

The September meeting was held at Kentucky Dam Village State Park in conjunction with the annual Labor-Management Conference. In a follow-up from previous meetings, the Committee was advised by staff from the Office of the Attorney General that the Attorney General had decided to intervene in the pending workers' compensation rate filing for coal operators in the KWCIP.

A brief report by a member of the Workers' Compensation Board informed the Committee about an administrative regulation to contain workers' compensation medical costs. The Governor's health care reform plan was also briefly discussed.

At the October meeting, two administrative regulations were reviewed by the committee: 803 KAR 2:320, relating to bloodborne pathogens, and 903 KAR 5:270, which increased the maximum weekly unemployment insurance benefit from \$209 to \$217.

The December meeting was devoted primarily to another update on the pending request for an increase in workers' compensation rates for coal mining. Representatives from several groups, including the Department of Insurance, an actuarial firm, the KWCIP, the coal industry intervenors, and the Office of the Attorney General, were heard. The impact of the rate increase on coal employers, especially small employers, was also discussed.

At the eighth meeting of the Committee, held in February, an administrative regulation, 803 KAR 25:091 was reviewed. The regulation, mentioned in previous meetings, contained the workers' compensation hospital fee schedule. Its primary purpose is to limit or cap hospital

charges for workers' compensation injuries and diseases. No objections on the administrative regulation were raised.

At the ninth meeting, committee members asked the Department of Insurance why 1992 HB 544, which requires insurance carriers to offer deductible insurance policies for workers' compensation, had not been implemented. An attorney with the Department of Insurance responded that the regulation was completed, had been filed, and should go into effect in April or May.

The following administrative regulations, which related to workers' compensation medical procedures, were reviewed: 803 KAR 25:095, 803 KAR 25:096, 803 KAR 25:011; and 803 KAR 25:012. The regulations imposed restrictions on doctor-shopping and required an approach for a medical care delivery system similar to a managed care system. The first two were found deficient by the Administrative Regulations Review Subcommittee. The other two were approved.

In addition, an update was given about the Southeast Coal situation and the impact of its bankruptcy on injured employees.

The tenth meeting, in April, began with a review of three administrative regulations: 803 KAR 2:301, 803 KAR 2:320, and 803 KAR 2:403. These regulations contained proposed amendments brought about by changes in federal occupational safety and health standards. They dealt with asbestos, formaldehyde, cadmium, and mephylenadianilene (MDA) standards. The regulations were approved with no objections.

Provisions of the Governor's Health Care Reform Plan were explained. The Labor Cabinet summarized the workers' compensation provisions in the Governor's Health Care Plan which included: a workers' compensation rate rollback of five percent, a freeze on those rates for two years, managed care, and 24-hour coverage in workers' compensation.

The following items were discussed at the eleventh meeting: the recently filed request for a workers' compensation rate increase for all non-coal employers in the KWCIP; a comparison of the workers' compensation provisions contained in the legislative proposals considered during the 1993 Special Session on health care; and a report the Job Training Partnership Act (JTPA). The Committee adopted a motion which requested that the newly created Task Force on Health Care include workers' compensation within its scope.

The September meeting was held at Kentucky Dam Village State Park. The major topic covered at the meeting was an update on the Clinton health care proposal, given by a professor of public health at Western Kentucky University.

The thirteenth meeting of the Committee was held in October. The President of Comp Ed, a nonprofit corporation that conducts educational seminars on workers' compensation, reported that his firm hired a consulting firm to conduct a professional evaluation of Administrative Law Judges (ALJs) in the Department of Workers' Claims.

On behalf of the employees at the Outwood facility in Dawson Springs, representatives of the Service Employees International Union (SEIU) gave a presentation on the difficulties of negotiating a labor contract.

The Commissioner of the Department of Workers' Claims and the chairman of the Workers' Compensation Board presented a summary of the Board's legislative recommendations for the 1994 legislative session.

The attorney for the Department of Insurance reported that the request for a workers' compensation increase in coal rates was rejected by the Commissioner of Insurance.

The LRC granted the Committee an extension of the interim through November of 1993, which included authorization to conduct a 2-day meeting regarding workers' compensation issues. At the November meeting, the Committee heard testimony from several state agencies and various groups. Numerous suggestions and recommendations relating to workers' compensation reform were received. At the conclusion of the meeting, the committee decided to request authorization from LRC to meet in December. The LRC granted the committee's request and a 2-day meeting was scheduled.

Subcommittee on Employment Standards and Labor Relations

The Subcommittee on Employment Standards and Labor Relations met three times during the interim.

At the first meeting, the issue of the treatment of Kentucky contractors in other states, compared with the treatment of non-resident contractors in Kentucky, was discussed. After hearing testimony from several subcommittee members and a contractor concerning licensing requirements and in-state preference in bidding, the chairman directed LRC staff to gather more information for the subcommittee.

Workers' compensation problems faced by small coal operators were discussed including a proposed rate increase of 44.9% for surface coal mines and 74.7% for underground mines, in the KWCIP. In addition, testimony was given about the concern coal companies have with insurance companies that require payment in advance of 25% of their premium.

The Subcommittee agreed to send a letter to the Commissioner of Insurance, asking him to closely scrutinize the proposed rate increases on coal operators in the KWCIP.

At the second meeting, an issue relating to independent contractors in workers' compensation was discussed. Even though the Kentucky Supreme Court has ruled that independent contractors are not employees, KRS 342.610 holds a contractor liable for workers' compensation purposes if the subcontractor fails to provide coverage for his employees. Comments and testimony were heard from constituents, the Commissioner of the Department of Workers' Claims, the General Counsel of the Department of Housing, Buildings, and Construction, and the Vice-president for Consumer and Government Affairs of the National Council on Compensation Insurance (NCCI) regarding workers' compensation and its effect on the independent contractor/subcontractor relationship.

At its third meeting, the Subcommittee again discussed the competitive disadvantage of Kentucky contractors compared to out-of-state contractors. Testimony was heard from representatives of the Kentucky Chamber of Commerce and the Finance and Administration Cabinet. A suggestion was made that more information should be gathered and legislation considered that would provide reciprocity to Kentucky contractors who bid against out-of-state contractors.

A draft legislative proposal was presented that would permit sole proprietors and partners of a partnership in contract construction or the trucking industry to reject the provisions of the workers' compensation program. This proposal would exclude from workers' compensation premium calculations wages paid in these situations.

The Subcommittee also learned that the Commissioner of Insurance had rejected the proposed increase of 42% in workers' compensation rates for coal employers in the KWCIP.

Subcommittee on Job Training, Licensing and Apprenticeship

The Subcommittee on Job Training, Licensing, and Apprenticeship met seven times during the 1992-93 Interim. Beginning in July, 1992, the Subcommittee reviewed the activities of the Workforce Development Cabinet. In addition to updating members on the Cabinet's progress since its formation in 1990, the Secretary of the Cabinet responded to recommendations contained in the 1990 SCR 72 study of workforce demographics.

The second meeting, in October, 1992, examined services available to dislocated workers through Title III of the Job Training Partnership Act (JTPA). The Commissioner of the Department of Employment Services presented an overview of Kentucky's participation in the JTPA program. A discussion of a federal audit of JTPA expenditures on training for employees of the Toyota plant indicated that the Department for Employment Services was contesting a federal finding that nearly \$7 million of JTPA funding was spent inappropriately. The dispute has not been resolved.

In December, a presentation was made to the Subcommittee on HCR 166, which was a study of tax classification procedures used by the Division of Unemployment Insurance to establish tax rates for businesses.

In April, 1993, the Executive Director of the Bluegrass State Skills Corporation (BSSC) gave a historical overview, summarized current activities, and described recent policy changes affecting the program. Since the 1988-89 fiscal year, BSSC has been unable to fund all training requests. Additionally, a decision was made by the executive branch not to make commitments for training in future years which exceed available budgeted funds for the current biennium. This decision represented a change from prior practice, when BSSC routinely used surplus funds (recovered when approved training programs spent below budget) to make advance training commitments.

The fifth meeting, in June, 1993, focused on recent federal changes in the JTPA program and the effects the changes would have on service programs in the Commonwealth. With key

staff from both the Workforce Development and Human Resources Cabinets, members reviewed the federal amendments in detail. Key features included a new emphasis on a case management approach and supportive services for each JTPA participant.

In August, 1993, the Subcommittee invited representatives from three of the Service Delivery Areas (SDAs) under JTPA to address the problems and opportunities presented by the federal changes to the JTPA program. Representatives from the Louisville SDA, Purchase/Pennyrile SDA, and the Eastern Kentucky Concentrated Employment Program agreed that the case management approach should help improve outcomes for clients, but fewer people will be served than previously.

The final Subcommittee meeting in October, 1993, was devoted to a presentation of a study required by 1992 HCR 10, on part-time and temporary employment in the Commonwealth. The study originated from one of the recommendations from the 1990 SCR 72 study on workforce demographics conducted the previous interim. Subcommittee staff, as well as LRC economists, presented the study findings. Generally, part-time and temporary workers in state government are provided a wider range of benefits than their contemporaries in the private sector. Nationally, about 20% of the workforce is employed on a part-time or temporary basis. About 80% of part-timers choose part-time work voluntarily, while the remaining 20% would rather have full-time jobs. Kentucky appears to be following national trends in the use of part-time and temporary workers.

**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE ON
STATE GOVERNMENT**

**Senator Joe Meyer, Co-Chair
Representative Ramsey Morris, Co-Chair**

Sen. Walter Baker
Rep. Eddie Ballard
Rep. Joe Barrows
Sen. Walter Blevins
Rep. Jim Bruce
Sen. Ed Ford
Sen. Kelsey Friend
Rep. Donnie Gedling
Rep. Charles Geveden
Rep. Ken Harper
Sen. Gene Huff
Rep. Bill Lear
Rep. Jimmie Lee
Rep. Ray Mullinix

Rep. Lonnie Napier
Sen. Rick Rand
Rep. Kenny Rapiet
Rep. Jon David Reinhardt
Rep. Jody Richards
Sen. John "Eck" Rose
Rep. Martin Sheehan
Rep. John Will Stacy
Rep. Tommy Todd
Rep. Jim Wayne
Sen. Gex (Jay) Williams
Rep. Pete Worthington
Rep. Jim Yates
Rep. James Zimmerman

LRC STAFF: Joyce Honaker, Joyce Crofts, Joy Blanton, Barri Christian, Bob Doris,
Clint Newman, and Peggy Sciantarelli

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON GENERAL GOVERNMENT

Rep. Jim Bruce, Chair
Sen. Walter Blevins, Vice-Chair

Rep. Eddie Ballard
Sen. Ed Ford
Rep. Donnie Gedling
Rep. Charles Geveden
Rep. Ken Harper
Sen. Gene Huff

Rep. Jimmie Lee
Rep. Ray Mullinix
Rep. Lonnie Napier
Sen. Gex (Jay) Williams
Rep. Jim Yates

Senator Joe Meyer, Ex-Officio
Representative Ramsey Morris, Ex-Officio

SUBCOMMITTEE ON PERSONNEL

Senator Rick Rand, Chair
Rep. Joe Barrows, Vice-chair

Sen. Walter Baker
Sen. Kelsey Friend
Rep. Bill Lear
Rep. Jon David Reinhardt
Rep. Jody Richards
Sen. John "Eck" Rose

Rep. Martin Sheehan
Rep. John Will Stacy
Rep. Tommy Todd
Rep. Jim Wayne
Rep. Pete Worthington
Rep. James Zimmerman

Senator Joe Meyer, Ex-Officio
Representative Ramsey Morris, 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; relations with the federal government; administrative organization; administrative regulations; statutory administrative agencies; Department of Law; Secretary of State; state personnel; state retirement systems; military affairs and civil defense; public property and public printing; public officers, their terms, appointment, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the libraries; archives and records; public corporations; Commonwealth's attorneys; circuit clerks.

COMMITTEE ACTIVITY

During the 1992-93 Interim, the Interim Joint Committee on State Government held 12 meetings prior to November 1, 1993. Subject to the Legislative Research Commission's approval, it will meet beyond November 1, primarily to consider recommendations of the Governor's Commission on Quality and Efficiency.

The Committee was organized into two subcommittees, General Government and Personnel. Following is a summary of activity of the full committee and each subcommittee.

Major topics before the Interim Joint Committee on State Government were health insurance coverage of County Employees Retirement System retirees; the final report of the Task Force on Governmental Ethics and proposed bill draft; 1992 HCR 159, which directed the State Government Committee to study disaster and emergency services in Kentucky (study assigned to the General Government Subcommittee); proposed increases in employer contribution rates by the Kentucky Retirement Systems; a report by Secretary of State Bob Babbage on the work of Democracy, Inc., a nonprofit, nonpartisan foundation created for the purpose of increasing voter education, registration, and turnout; prisoner classification and security at Kentucky's correctional institutions; funding problems of the Department of Public Advocacy; and compliance with the 1990 federal Americans with Disabilities Act. The Committee also heard a report from the Executive Director of the Commission on Human Rights, one of its agencies of jurisdiction.

In preparation for the First Extraordinary Session of 1993, the Committee held two special meetings in January to discuss and hear testimony on 1994 BR 108, the legislation proposed by the Task Force on Governmental Ethics.

In performing its statutory legislative oversight responsibilities, the Committee reviewed 28 administrative regulations under the review processes established in KRS Chapter 13A (26 were approved; two were found deficient). Pursuant to KRS 12.028, the Committee held hearings on seven executive reorganization orders: 92-624, realigning the Department of Information Systems; 92-601, attaching the Executive Branch Ethics Commission to the Office of the Governor; 92-1167, abolishing the Office of Historic Properties and transferring its functions,

personnel, equipment and funds to a newly-created Division of Historic Properties in the Department for Facilities Management within the Finance and Administration Cabinet; 92-1339, renaming two divisions of the Public Service Commission; 93-182, reorganizing the Department of Personnel; APA 1-93, reorganizing the Office of the Auditor of Public Accounts; and 93-606, reorganizing the Department of Public Advocacy. The Committee also conducted an in-depth review of the performance audit of the Kentucky Lottery Corporation. As required by KRS 154A.030(1), the Committee held a public hearing on the following appointments to the Kentucky Lottery Corporation's Board of Directors: Charles O. Bradley, Theodore R. Broida, Patrick J. Cvengros, David V. Kramer, Laurence T. Summers, Tina C. Whitaker, and Sharon K. Williams. As required by KRS 18A.050, the Committee held a public hearing on the appointments of Shirley J. Clark and Malvin E. Moore, Jr. to the Personnel Board. The Committee voted to recommend that the Senate confirm the appointments.

Subcommittee on General Government

The Subcommittee on General Government held one meeting during the 1992-93 interim. It was briefed on the work of the Governor's Commission on Quality and Efficiency, including the results of its survey of state employees and a discussion of the major issues under consideration. The Subcommittee also heard a presentation from the Executive Director of the Division of Disaster and Emergency Services (DES) regarding the status of emergency preparedness in Kentucky. The presentation included discussion of ongoing efforts to improve preparedness; the line of communication needed at the local, state, and federal levels and how it should be improved; and other areas that need assistance and improvement. Based partly on a review of a Florida Disaster Planning Report produced in the aftermath of Hurricane Andrew, an in-house DES task force identified four major areas needing emphasis in Kentucky: (1) coordination of response plans from the local to the state to the federal level; (2) a recovery plan--how to rally resources in emergencies; (3) an incident command system; and (4) advance planning.

Subcommittee on Personnel

The Subcommittee on Personnel held one meeting prior to November, 1993. At that meeting, it discussed two topics with the Personnel Commissioner and Deputy Commissioner: the 1993 federal Family and Medical Leave Act, and holiday pay policy for state employees. If the interim extension is approved, the Subcommittee may meet again to discuss the 1993 Department of Personnel State Government Salary Survey.

**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE ON TOURISM DEVELOPMENT**

**Representative Rex Smith, Chair
Senator Susan Johns, Co-Chair**

Rep. Royce Adams	Rep. Elbert Hampton
Rep. Woody Allen	Rep. Kenneth Harper
Rep. Eddie Ballard	Sen. Danny Meyer
Sen. Charlie Borders	Sen. Michael Moloney
Sen. David Boswell	Sen. Virgil Moore
Rep. Mike Bowling	Rep. Charles Nelson
Sen. Fred Bradley	Rep. Richie Sanders
Sen. Tom Buford	Sen. Larry Saunders
Rep. Ron Cyrus	Rep. Dave Stengel
Rep. Richard Fox	Rep. Leslie Trapp
Rep. Drew Graham	Rep. James Zimmerman

LRC STAFF: Linda Kubala, John Buckner, Ph.D., Mary Lynn Collins and Terisa Roland

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

INTERIM JOINT COMMITTEE ON TOURISM DEVELOPMENT

JURISDICTION: matters relating to tourism and travel promotion and development; state, interstate, and national parks and historic sites; fish and wildlife; small business matters relative to tourism development; hotels and motels generally; hotel and restaurant regulations; billboards; advertising related to tourism development; entertainment establishments; campgrounds; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; travel promotion; the Tourism Cabinet.

COMMITTEE ACTIVITY

The Tourism Development Task Force met seven times prior to the 1993 Organizational Session. The House and Senate realigned their committee jurisdictions in the Organizational Session, necessitating changes in interim committees. In March 1993, the LRC established the Interim Joint Committee on Tourism, and a separate Special Subcommittee on Energy. This report includes work of the Tourism Development and Energy Task Force where appropriate, and the activities of the Interim Joint Committee on Tourism, which met seven times between April and October of 1993.

STRATEGIC PLANNING

The central focus of the Committee's 1993 work was strategic planning for tourism development. More specifically, the Committee examined the need for a strategic plan to guide the programs and expenditures of the Tourism Cabinet, and the questions of who should be responsible for drafting the plan, what groups should have primary input in the planning process, what topics should be addressed, and what the planning horizon should be. In this context, the Committee heard from a wide variety of persons involved in private-sector tourism businesses, as well as from state and local tourism and economic development officials.

All groups that addressed the committee spoke in favor of strategic planning for tourism as a general matter. The President of the Kentucky Tourism Council, an industry association, stated a consensus of the Council that a strategic plan for the Tourism Cabinet is desirable, in that it would help lend stability and direction to tourism development in Kentucky. Moreover, testimony was given that a strategic plan that gave attention to the formation of public-private partnerships would serve both to leverage state funds and to enhance opportunities for greater private-sector development. Other private-sector tourism representatives and officials from local government echoed this perspective by stating that a strategic plan would be useful in helping local governments to better understand the long-term direction of tourism development in the state. All groups which appeared before the Committee stated that the strategic planning process would be strengthened by a "bottom up" rather than "top down" process that emphasized widespread participation and consensus-building.

In October 1993, the Committee asked both the Tourism Cabinet and Economic Development Cabinet to comment on the place of the tourism industry within the economic development strategic plan being prepared by the Economic Development Cabinet. A commissioner within the Economic Development Cabinet outlined the Economic Development Cabinet's strategic planning efforts, and emphasized that the plan should be seen as affecting the economic development activities of all areas of state government, including tourism. He said all Cabinet secretaries, as well as representatives from major industries and industrial sectors throughout the Commonwealth had been asked to participate in the planning process. The Secretary of the Tourism Cabinet said that strategic planning efforts for tourism would begin where the Economic Development Cabinet's plan ended. The Secretary reported that the Cabinet is seeking federal funds for strategic planning. This plan would subdivide the state into regions and would set forth specific recommendations that each region should follow to enhance and coordinate its tourism development efforts.

Niche Tourism

In August 1993, the Committee considered the role of niche tourism - small tourism markets with high growth potential - and the role they play in Kentucky's overall tourism industry. The Committee was interested in collecting information and different perspectives on various niche markets, as well as how the Tourism Cabinet might assist in further developing niche tourism, and how these diverse markets could be included in a statewide plan. In this context, the Committee heard from the chair of the African-American Heritage Task Force, the executive director of the Lexington Sister Cities Commission, a representative from the League of American Wheelmen, and representatives from the Grant County Kentucky Commonwealth Theater Project.

Signage

In March 1993, the Committee received and discussed the final report from the Governor's Task Force on Signage and Tourism. The chairman of the Committee said that while the Task Force failed to recommend adoption of the Cotton Amendment, recommendations were made for other signage options. Adoption of the Cotton Amendment has been by far the most controversial part of proposed changes. It would allow billboards on additional sites along Interstate Highways, and might require Kentucky to repay some funds to the federal government. The Committee also heard from the Secretary of the Transportation Cabinet, who discussed each of the six recommendations contained in the final report of the Task Force. The secretary gave a status report on the Tourist-Oriented Directional Signs (TODS) program and discussed the viability of a "fifth logo" program. The secretary also reported on implementation of 1992 HB 679, which authorized logo signs along parkways. He said signs should be in place by early 1994.

Department of Parks

The Committee heard from the Secretary of the Tourism Cabinet and the Commissioner of the Department of Parks in regard to the condition of Kentucky's state parks system and plans for its renovation. The 1992 General Assembly authorized \$100 million in bonds to be used to renovate and upgrade the existing parks. That authorization required approval by the General Assembly of the actual projects to be funded through these bonds during a special session expected in late 1992. In September 1992, the Task Force received a progress report from the Tourism Secretary on development of a proposed project list. In September 1993, the special session still had not been called, and the list of administration projects still had not been released to legislators. The Secretary said that the \$100 million bond issue would be focused upon renovation, as required in the authorization. She said that the priorities would be: (1) existing resort lodges; (2) infrastructure throughout the system, such as parking lots, water treatment facilities, and electrical repair; (3) preservation projects at existing historic sites; and (4) new construction projects, if such projects replace existing facilities that are no longer usable, or if such projects generate revenues to allow a park to be more competitive. The Committee strongly endorsed the priorities enunciated by the secretary, but has not yet been able to review the projects selected using these priorities.

The Committee also looked at privatization of some or all parks services as one possible way to help alleviate some of the funding problems faced by the Department of Parks. Kentucky and most of its neighboring states lease some state park services to private business, under various arrangements. If Kentucky cannot properly maintain its parks system, the Committee felt it should consider alternative methods to operate the components of the system, with privatization being just one of these. The Commissioner of the Department of Parks and the Secretary of the Tourism Cabinet both expressed opposition to the wholesale privatization of parks. The Commissioner said that in his opinion privatization would exacerbate funding problems faced by the Department, since vendors would lease only the profitable services. The Secretary said that the Cabinet was not opposed to privatization per se, but that privatization should be limited to new projects in which a private investor makes the entire investment or the greater part of an investment. However, the Secretary said that the Cabinet was exploring the viability of greater public-private partnerships as a method to leverage state funds.

In September 1993, the Committee also received a status report on the in-progress study of Kentucky's state parks system being conducted by the Office of Program Review and Investigation of the Legislative Research Commission. The report detailed the scope and breadth of the study and gave a tentative date for its completion.

Resolutions

The Committee passed two resolutions. The first, addressed to members of Kentucky's congressional delegation, concerned the reservations system in use at Mammoth Cave National Park. The Committee learned that the reservations system for this park was based in California. To improve efficiency and enhance employment opportunities in the Mammoth Cave region, the Committee requested Kentucky's congressional delegation to ascertain why this reservations

system was in use and to encourage the National Parks Service to develop a locally-based reservations system.

The second resolution, which was sent to the Interim Joint Committee on Appropriations and Revenue and the Office of the Governor, expressed the Committee's support of the priority listing for the \$100 million bond issue for the Department of Parks, as set forth by the Secretary of the Tourism Cabinet.

**REPORT OF THE 1992-93
INTERIM JOINT COMMITTEE ON
TRANSPORTATION**

**Senator Kim L. Nelson, Co-Chair
Representative N. Clayton Little, Co-Chair**

Senator David Boswell
Senator Susan D. Johns
Senator Robert J. Leeper
Senator John D. Rogers
Representative Ray Altman
Representative Hubert Collins
Representative Ron Cyrus
Representative Kenny French
Representative John Harper
Representative Jimmy Lee
Representative Paul Mason
Representative Lonnie Napier
Representative Dorsey Ridley
Representative John Will Stacy

Senator Lindy Casebier
Senator Nick Kafoglis
Senator Virgil Moore
Senator John "Eck" Rose
Representative Michael Bowling
Representative Freed Curd
Representative Rick Fox
Representative Hank Hancock
Representative Stephen Keith
Representative Jim Maggard
Representative Ray Mullinix
Representative Fred Nesler
Representative Richard Sanders
Representative Pete Worthington

LRC STAFF: Kathy A. Campbell, Jerry Deaton, and Adell Kemper

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE 1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP
SUBCOMMITTEE ON ADMINISTRATIVE REGULATIONS

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Senator Kim L. Nelson, Co-Chair

Senator David Boswell
Senator John Rogers
Representative Michael Bowling
Representative Jim Maggard

Senator Kim Nelson
Senator John "Eck" Rose
Representative Stephen Keith
Representative John Stacy

**SUBCOMMITTEE ON VEHICLE REGULATION AND
COMMERCIAL TRANSPORTATION**

Representative Ron Cyrus, Chair

Senator Lindy Casebier
Senator Robert Leeper
Representative Jimmy Lee
Representative Fred Nesler
Representative John Will Stacy

Senator Susan D. Johns
Representative Hank Hancock
Representative Jim Maggard
Representative Dorsey Ridley

Representative N. Clayton Little, Ex-Officio Member
Senator Kim L. Nelson, Ex-Officio Member

SUBCOMMITTEE ON HIGHWAYS AND TRAFFIC SAFETY

Senator Nick Kafoglis, Chair

Senator David Boswell
Senator John "Eck" Rose
Representative Michael Bowling
Representative Freed Curd
Representative Kenny French
Representative Ray Mullinix
Representative Pete Worthington

Senator Lindy Casbier
Representative Ray Altman
Representative Hubert Collins
Representative Rick Fox
Representative Stephen Keith
Representative Lonnie Napier

Representative N. Clayton Little, Ex-Officio Member
Senator Kim L. Nelson, Ex-Officio Member

**SUBCOMMITTEE ON OVERSIGHT
OF HIGHWAY CONSTRUCTION**

Representative Hank Hancock, Chair

Senator Robert Leeper
Senator John D. Rogers
Representative Ray Altman
Representative John Harper
Representative Fred Nesler

Senator Kim L. Nelson
Senator John "Eck" Rose
Representative Hubert Collins
Representative N. Clayton Little
Representative Pete Worthington

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 monies; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

COMMITTEE ACTIVITY

During the 1992-93 Interim, the Interim Joint Committee on Transportation held fifteen meetings prior to November 1, 1993. The Legislative Research Commission approved a request by the Committee to meet November 16 to consider prefiled legislation referred by LRC and highway project cost overruns.

The Committee was organized into four subcommittees: Administrative Regulation - Transportation, Highways and Traffic Safety, Oversight of Highway Construction, and Vehicle Regulation and Commercial Transportation. The Subcommittee on Highways and Traffic Safety did not meeting during the 1992-93 interim; however, the following is a summary of activities by the Committee and its other three subcommittees.

The major topics discussed by the Interim Joint Committee on Transportation were the effect of the federal Intermodal Surface Transportation Efficiency Act (ISTEA) on planning and funding transportation needs in Kentucky; the state's system of taxation of motor vehicles and motor carriers; statutory changes needed to comply with the International Fuel Tax Agreement (IFTA); Kentucky's participation in the demonstration project for motor carriers - "Advantage - I-75"; implementation of the federal motor voter legislation; the feasibility of locating and funding an AMTRAK route through Kentucky; the sounding of train whistles within city limits; and the timetable for conversion of highway signs (and bidding of highway projects) to the metric system.

The Committee solicited testimony from several transportation related interest groups. Representatives of the Ready-Mix Concrete Association urged greater use of concrete in highway projects. They also suggested that money in the Six-Year Road Plan be shifted from asphalt projects to demonstration projects using concrete.

Representatives of the Kentucky Manufactured Housing Institute were concerned with speed limits on interstates for transporting modular and mobile homes, temporary registration tags, elimination of a twelve foot wide annual permit, and consolidation of several statutory definitions affecting their industry.

Representatives of the Transit Authority of Northern Kentucky expressed concern over the "non-attainment" areas of the state complying with the federal Clean Air Act requirements for bus emissions.

Representatives of the Plant Mix Asphalt Association urged the Committee to continue the extensive use of asphalt in the state highway construction program.

Representatives of Kentuckians for Better Transportation urged funding of a strategic highway corridor system, creation of an economic development fund for small airports, and greater utilization of the state's riverports.

Representatives of the Kentucky Auto and Truck Recyclers supported legislation creating a license for salvage dealers, as well as legislation to "brand" the title of salvage vehicles.

Representatives of the Kentucky Association of Highway Contractors encouraged the Committee to review terminating the liability of the contractor when the state accepts a road that has been built to meet state specifications, fuel-maintenance indexing, and the possibility of bidding maintenance projects at the district level.

Representatives of the Kentucky Transportation Cabinet reported on an internal study of estimating costs for highway projects, environmental impacts on the highway program, and highway projects involving the removal of asbestos. The Cabinet also informed the Committee that the Cabinet would focus on the following topics during the next legislative session:

- (1) Federal Mandates
 - (a) Enacting a mandatory seat belt law; and
 - (b) Enacting legislation to revoke the driver's license of persons convicted of drug offenses.
- (2) Providing insurance on the state's fleet of motor vehicles.
- (3) Compliance with IFTA.
- (4) Surety bonds for Disadvantaged Business Enterprises (DBE's)
- (5) Privatizing the installation of Tourist Oriented Directional Signs (TODS) on parkways.
- (6) Branding of car titles.

In performing its statutory legislative oversight responsibilities, the Committee reviewed seventy-seven administrative regulations under the regular and quadrennial regulation review processes established in KRS Chapter 13A. Pursuant to KRS 45.247 and 45.248, the Committee approved ninety-nine highway projects with a project phase exceeding its cost estimate by more than fifteen percent.

The Committee prefiled 94 RS BR 59, relating to the taxation of motor vehicles, and 94 RS BR 60, relating to how motor vehicles are valued for purposes of paying motor vehicle usage tax.

Subcommittee on Administrative Regulations

The Subcommittee on Administrative Regulations is a special subcommittee formed by the full Transportation Committee for the purpose of quadrennially reviewing transportation related administrative regulations. The Subcommittee reviews the regulations in detail and makes recommendations to the full Committee, according to the requirements of KRS Chapter 13A regarding approval or disapproval of regulations.

The Subcommittee met three times during the 1992-93 legislative interim and made the following report:

(1)	Number of regulations reviewed:	42
(2)	Regulations recommended for approval:	32
(3)	Regulations rejected:	3
(4)	*Regulations deferred:	7

*Deferred regulations were corrected by the Transportation Cabinet and appeared before the full Committee as a result of the standard regulation review process.

Subcommittee on Vehicle Regulation and Commercial Transportation

The Subcommittee on Vehicle Regulation and Commercial Transportation was formed to discuss issues including, but not limited to, vehicle safety and enforcement, vehicle taxation, motor carrier issues, and boating and aeronautics issues, and to make reports to the full Transportation Committee on its findings.

During the 1992-93 Legislative Interim period, the subcommittee met three times.

The major topic of each meeting was proposed legislation to exempt trucks over 59,999 pounds from payment of usage tax. The Subcommittee contacted trucking interests, Transportation Cabinet officials, Revenue Cabinet officials, and Economic Development Cabinet officials. These groups were asked to present legislation to the Subcommittee that would achieve the desired results of the trucking industry, yet not leave the Transportation Cabinet with a revenue shortfall.

At this point, the groups have presented the Subcommittee with a proposal that would exempt these trucks from usage tax, and replace the lost income with a four cent per gallon increase in the special fuels (diesel) tax. The Subcommittee plans to present the bill to the full Committee at the November 16th meeting with a recommendation that it be pre-filed.

In addition to the usage tax issue, the Subcommittee also heard testimony from numerous groups regarding proposed legislation that would require the branding of a motor vehicle title when a vehicle is substantially damaged and subsequently rebuilt. The Subcommittee asked groups such as the Automobile Recyclers' Association, the Automobile Dealers Association, the Attorney General's Office, and the Transportation Cabinet to work together to present the Subcommittee with a draft that would provide consumer protection while also allowing dealers and recyclers to maintain their services. At this point, the groups have not reached full agreement on legislation. The main obstacle concerns notification of a buyer that a vehicle has been rebuilt. The Subcommittee will meet one more time in November to discuss this issue and will at that time make a decision regarding legislation.

Subcommittee on Oversight of Highway Construction

During the 1992-93 Interim, the Subcommittee on Oversight of Highway Construction held twelve meetings prior to November 1, 1993. The LRC approved a special meeting of the Subcommittee on November 16 to review highway construction projects with project phases exceeding their cost estimate by fifteen percent.

The Subcommittee reviewed implementation of the 1992 Six-Year Road Plan during the interim and prepared to review Cabinet changes in the Six-Year Plan for the 1994 Session.

One hundred projects were presented to the Subcommittee by the Cabinet totaling \$60,226,922 (Federal Match: \$36,347,384/State Match: \$23,200,499). The one hundred projects had eleven design phase overruns, twenty-six right-of-way phase overruns, thirty-one utility phase overruns, and forty-five construction phase overruns.

Design phase overruns totaled	\$ 1,530,000
Right of Way phase overruns totaled	\$14,408,000
Utility phase overruns totaled	\$ 5,843,000
Construction phase overruns totaled	\$38,570,922

Of the one hundred project cost overruns, the Subcommittee recommended ninety-nine to the full Committee for approval.

**REPORT OF THE 1992-93
ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

Representative Thomas Kerr, Chair

Rep. Woody Allen
Rep. James Bruce
Sen. Gene Huff
Sen. Nick Kafoglis
Sen. Tom Smith
Rep. James Yates

LRC STAFF: Patrice Carroll, Susan Eastman, Joseph Hood, Peggy Jones, Gregory Karambellas, Tom Troth, Donna Valencia, and Susan Wunderlich

**PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

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

In August 1993 the Legislative Research Commission published the 1993 *Administrative Regulations Service of Kentucky*, which contains administrative regulations in effect as of August 1, 1993.

Between May 1992 and November 1993, 1,170 administrative regulations were filed with the Administrative Regulations Compiler for review by the Subcommittee. The Subcommittee meets monthly, and has reviewed between 30 and 150 administrative regulations a month between May, 1992 and December, 1993. During this period, it has found 36 administrative regulations deficient. 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.

The Subcommittee is preparing a revised edition of Kentucky Administrative Regulations (Informational Bulletin No. 118), the manual for administrative regulatory procedure. Upon its completion, the Subcommittee will offer a continuing legal education class on administrative regulatory procedure.

The Subcommittee is considering suggested amendments to KRS Chapter 13A relating to changes in terminology, procedure, and review of administrative regulations by legislative subcommittees.

The Subcommittee is continuing its review of administrative regulations governing administrative hearings, and will issue recommendations for legislation to insure a uniform procedure for administrative hearings.

The Subcommittee is considering recommendations for the revision of review forms used by LRC staff in its review of administrative regulations, and the development of computer programs to standardize forms relating to amendments and other material presented at Subcommittee meetings by administrative bodies, and to assist administrative bodies in the drafting of administrative regulations.

In the past, legislation relating to administrative regulations often did not comply with terminology or procedures established by KRS Chapter 13A. In order to prevent ambiguity in the intent of such legislation, the Subcommittee suggested an addition to the LRC Bill Drafting Manual establishing guidelines for the drafting of legislation relating to administrative regulations.

The Subcommittee continues to review the use of policies and procedures by a number of agencies, to insure that these agencies comply with statutory guidelines regarding administrative regulations (KRS Chapter 13A).

**REPORT OF THE 1992-93
CAPITAL PLANNING ADVISORY BOARD**

**Representative Mike Bowling, Chair
Mr. Arthur Walson, Vice-Chair**

Mr. Clark Beauchamp
Mr. C. Thomas Bennett
Mr. Don Cetrulo
Ms. Susan S. Clary
Mr. Bill Hintze
Mr. Don C. Kelly
Sen. Michael Moloney

Sen. Rick Rand
Mr. William R. Renner
Rep. Tommy Todd
Mr. Laurel True
Judge Edwin White
Judge Anthony M. Wilhoit

LRC STAFF: Ed Sergent, Pat Ingram, Joyce Morse, J.E. Owens, Esther Robison.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

CAPITAL PLANNING ADVISORY BOARD

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 in the regular legislative session. The Board is required to meet at least twice in each calendar year.

BOARD ACTIVITY

During the 1992-93 Interim, the Capital Planning Advisory Board held seven meetings. At its July 1992 meeting, the Board reviewed actions of the 1992 General Assembly relative to recommendations contained in the Board's 1990-96 statewide capital improvements plan and discussed the direction for the 1992-98 planning process. Guidelines for state agencies and higher education institutions to use in submitting their 1992-98 capital improvements plans were approved at the September 4, 1992 meeting and distributed on October 1, 1992. These guidelines reflected revisions recommended by the agencies and institutions following the 1990-96 planning process. The guidelines also recognized and attempted to avoid duplication with the responsibilities of other entities involved in statewide capital planning [information resource planning by the Kentucky Information Systems Commission (KISC), and the six-year highway construction plan as reported to the Interim Joint Committee on Transportation]. The guidelines stipulated that agency plans should include a status report of projects authorized by the 1992 General Assembly for the 1992-94 biennium, and a plan for all space and capital needs for the subsequent two biennia - 1994-96 and 1996-98. Submissions were to be provided in a Board-approved electronic format.

In its first two meetings of 1993, the Board discussed the establishment of a state building energy conservation program. The March meeting included a presentation by representatives of the Division of Energy in the Natural Resources and Environmental Protection Cabinet. The April meeting included presenters provided by the National Conference of State Legislatures (NCSL) through its technical assistance program; the presenters discussed the legislative background for state energy conservation programs, the Iowa energy conservation program, and performance contracting options.

Agency and higher education systemwide capital planning submissions were due on April 15, 1993. Board staff reviewed the submissions to ensure that status information had been provided for the 1992-94 projects and that all information on projects planned for future biennia had been provided. Staff then analyzed the planned projects and developed summaries highlighting each agency's priorities and major categories of projects. Capital construction and equipment projects totaling \$4.5 billion (including computer and telecommunications equipment submitted through the information resources planning process) were submitted.

The Board conducted a two-day meeting in July 1993 to review the capital plan submissions and to hear the testimony of agency and university representatives regarding their planning priorities. A subsequent meeting in September 1993 focused on the development of Board recommendations based on information received at the July meeting. Also at its September meeting, the Board received the final report of the Kentucky Information Systems Commission, which identified those computing and telecommunications equipment items that KISC considered to be of "high value." In October 1993, the Board finalized its recommendations and reviewed a draft of the 1992-98 statewide capital improvements plan to be submitted to the heads of the three branches of government. The Board also received the Transportation Cabinet's draft *Six Year Highway Plan, FY 1995-2000* at the October meeting.

Based on its review of the various capital improvements plans, the Board identified 39 projects as having exceptional merit: List "A" contains those projects deemed to have most exceptional merit. List "B" contains other projects also deemed worthy of consideration based on their merit. There is no significance to the order in which projects are displayed on either list.

List "A" Americans with Disabilities Act - Project Pools
Chlorofluorocarbon (CFC) Projects
Underground Storage Tank Removal - Project Pools
Other Environmental and Life/Fire Safety Requirements
Maintenance Pools
Emergency Repair, Maintenance and Replacement Fund
Parks Revitalization Projects
Purchase of Audubon Collection/John James Audubon State Park
Juvenile Detention Facilities
Muhlenberg County Prison, Phase II
Kentucky State Reformatory/Replace Maximum Security Mental Health Unit
State Office Building - Franklin County
Fayette County Justice Center
Energy Management Program
Nature Preserves Acquisition Fund (Blanton Forest)
University of Kentucky Central Library
Hopkinsville Regional Technical Training Center
Statewide Data Network
State Police 800 MHz Trunked Radio System
State Records Services Center (Archives Facility)
Department of Personnel - Relocation from Capitol Annex

List "B" 24-Bed Children's Residential Facility, Laurel County-Additional Budget
 Human Services Construction Pool-Additional Budget
 Hazelwood-Additional Budget
 Western State Hospital (replace or renovate)
 TWIST - "The Worker's Information System"
 Hazard Community College Student/Performing Arts Center, Phase I
 Ashland Community College Classroom Building
 Department of Agriculture Regulatory Equipment
 Flood Control Matching Fund
 Capital Construction and Equipment Purchase Contingency Fund
 Kentucky History Center
 New Central Stores Facility
 KIA Fund A (the Federally Assisted Wastewater Revolving Loan Program)
 Commonwealth Convention Center Expansion and Renovation
 Renovation of Kentucky River Locks and Dams 5 through 14
 Kentucky River Locks and Dams - Construction/Replacement
 Economic Development Bond Program
 Northern Kentucky Convention Center

A total of 19 recommendations were adopted by the Board for inclusion in its 1992-98 statewide capital improvements plan. The recommendations can be grouped into the following categories: space management and utilization, judicial/corrections, technology/equipment, project approval considerations, requirements for future capital planning and budgeting submissions, higher education deferred maintenance, and an energy management program. Following is a summary of the recommendations in each category.

Space Management And Utilization

Recognizing that the provision of space to house state agencies represents a significant expenditure of the Commonwealth's resources, and that the location and configuration of that space affects the efficiency and effectiveness with which state services are rendered, the Capital Planning Advisory Board made the following recommendations in the category of space management and utilization:

- That the House and Senate should strongly consider appropriating funds necessary to construct a new Frankfort state office building;
- That legislation be enacted to give state agencies additional space acquisition options;
- That legislation be enacted that would create a new section in the state leasing statutes (KRS 56.800-814), to require that state agencies annually report to the Finance and Administration Cabinet any changes in their use of leased space; and

- That the Legislative and Judicial Branches adopt space utilization standards based on the new space utilization standards being developed by the space management and utilization office in the Department for Facilities Management.

Judicial/Corrections

The significant need and costs involved in providing facilities to house the growing state felon population, as well as the state's responsibility to provide public defender services, resulted in the following recommendations in the category of judicial/corrections:

- That the Governor and the General Assembly take the initiative to authorize juvenile and prison facilities on the basis of need, ahead of other considerations;
- That the 1994 General Assembly review all mandatory sentencing statutes to determine whether the sentencing requirements still meet the needs of the Commonwealth; and
- That the provision of increased space to accommodate a system of full-time public defenders be deferred pending recommendations of the Task Force on the Delivery and Funding of Quality Public Defender Services.

Technology/Equipment

Rapidly changing and costly technology and equipment are becoming increasingly important tools in the delivery of services to the citizens of the Commonwealth. For this reason, the CPAB addressed both the need for statewide leadership for information technology and the need to address costs, in taking the following actions:

- Recommended that legislation be enacted that would clarify the authority and role of the Kentucky Information Systems Commission (KISC), including a provision for KISC to collect data from agencies that will enable it to submit recommendations of project priorities to the Board;
- Directed that agencies locating in the new centralized laboratory facility minimize costs by sharing equipment whenever possible; and
- Requested that the Finance and Administration Cabinet recommend changes in state purchasing procedures to make those procedures more responsive to the computer and telecommunications equipment acquisition needs of state agencies.

Project Approval Considerations

The statewide capital improvements plan provides a context for the consideration of capital projects proposed for funding in the upcoming budget process. The CPAB took the following actions relative to issues that should be considered by the Governor and General Assembly in authorizing projects to be undertaken in the 1994-96 biennium:

- Urged the Governor and the legislature to authorize only those projects which are of the highest quality and which address the most pressing government needs;
- Urged the Governor and the legislature to authorize very conservative levels of debt until the budget reserve trust fund is adequately funded;
- Directed that agencies and universities requesting funds for capital projects to achieve compliance with the Americans with Disabilities Act (ADA) first demonstrate that they have considered and exhausted less-costly, non-construction alternatives before seeking construction funds; encouraged agencies and universities to identify alternative methods for providing services and programs that would allow them to achieve ADA compliance without costly capital modifications, even if the alternative methods will require legislative changes; and urged each branch to establish a system to provide expertise to assist agencies in understanding what is required in order to be in compliance with ADA;
- Urged that the state establish flood control project priorities and that the Governor and legislature budget adequate project funds for any flood control project commitments; and
- Recommended that the "pre-approval" of construction projects should be discouraged; however, for projects with the highest priority, the provision of funds for planning and design and site investigation and acquisition, without commitments to future funding, should be encouraged.

Requirements For Future Capital Planning And Budgeting Submissions

In order to have appropriate and relevant information in future planning and budgeting cycles, the CPAB made the following recommendations in the category of requirements for future capital planning and budgeting submissions:

- That the 1994 General Assembly raise the budgeting and planning thresholds for capital construction projects and computer systems from \$200,000 to \$400,000, with the annual cost threshold for state leases remaining at \$200,000; and
- That an "information technology assessment" be required as a component of each proposed capital construction project submitted, beginning with the 1994-2000 planning cycle.

Higher Education Deferred Maintenance

Citing concerns that maintenance funding at the public higher education institutions bears the brunt of revenue shortfalls and the resulting budget reductions, CPAB recommended:

- That the following approach, as developed by the Council on Higher Education (CHE), be implemented to address deferred maintenance issues on the campuses of the higher education institutions: (1) the CHE and CPAB should make maintenance of facilities a high priority in the consideration of new facilities; (2) the CHE and CPAB should require institutions to develop deferred maintenance plans; and (3) the CHE and CPAB should institute a periodic campus facilities condition audit.

Energy Management Program

The CPAB, as well as various other legislative committees and subcommittees, has recently received data indicating that at least 25 percent, or \$10 million of the state's \$40 million annual energy costs, could be saved through various energy conservation measures and building improvements. Therefore, CPAB has recommended:

- That legislation be enacted for the implementation of an energy management program for state facilities.

The complete report of the Capital Planning Advisory Board, the *1992-98 Statewide Capital Improvements Plan*, will be submitted to the heads of the three branches of government by November 1, 1993, the statutory deadline.

**REPORT OF THE 1992-93
CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

Senator Jeff Green, Chair

Sen. Charlie Borders
Rep. William Donnermeyer
Sen. Bob Leeper

Rep. Jim Maggard
Rep. Martin Sheehan
Rep. Tommy Todd

LRC STAFF: Ed Sergent, Pat Ingram, Scott Varland, and Esther Robison.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

COMMITTEE JURISDICTION: the Capital Projects and Bond Oversight 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; and, (4) the issuance of bonds by the Commonwealth, and the related individual projects. As a result of legislation enacted by the 1992 General Assembly, the Subcommittee also reviews: (1) all bonds issued by or on behalf of local school districts; (2) lists of state contracts awarded for the procurement of architectural and engineering services; and, (3) quarterly reports on the status of all major capital construction projects authorized in the two previous budgets.

COMMITTEE ACTIVITY

The Subcommittee has met thirteen times since November of 1992. It has reviewed twenty-nine projects, totaling approximately \$12.3 million, submitted by the Finance and Administration Cabinet, the University of Kentucky, and the University of Louisville. The Subcommittee has reviewed twenty economic development bond (EDB) projects, totaling \$23,147,500, including two EDB projects with line-item authorizations, totaling \$13,500,000.

The Subcommittee reviewed forty-nine 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) - ten loans, totaling \$27,616,181.
2. Fund B (Infrastructure Revolving Loan Fund, state-funded) - seven loans, totaling \$12,125,395.
3. Fund B1 (Drinking Water Grant Fund, state-funded) - two grants, totaling \$378,000.
4. Fund B2 (Drinking Water Loan Fund, state-funded) - one \$1,795,395 loan.
5. Fund C (Government Agencies Program, user-supported) - eleven loans, totaling \$7,437,225.
6. Fund D (Farmers Home Administration Loan Supplement Program) - seventeen interim loans, totaling \$12,735,000.
7. Fund E (Solid Waste Revolving Loan and Grant Fund, state-funded) - one \$200,000 loan.

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

1. Multiple KIA bond issues, totaling \$53,310,253, to fund approved public infrastructure projects and to refinance existing debt.

2. Three Kentucky Economic Development Finance Authority (KEDFA) bond issues, totaling \$73,505,000; the state is only a conduit for the sale of these bonds and has no liability for their repayment.
3. One composite bond issue, with gross proceeds of \$365,850,000, providing \$57,860,000 to fund ten projects authorized by the 1990 and 1992 General Assemblies and twenty-one approved EDB projects, and \$307,990,000 to partially refund previous bond issues.
4. Twenty-two bond issues, totaling \$295,138,965, for the state universities; proceeds from twenty-one of these issues are to be used to refund existing debt.
5. Three Kentucky Higher Education Student Loan Corporation (KHESLC) issues, totaling \$140,400,000, to refund existing bonds.
6. Kentucky Housing Corporation - seven bond issues, totaling \$410,805,000, to fund the purchase of low-income housing mortgages and to refund existing financings.
7. Sixty-five local school district bond issues, totaling \$232,027,535, with state debt service participation through the School Facilities Construction Commission (SFCC).
8. Thirty-three local school district bond issues, totaling \$87,645,000, and a \$12,295,000 Kentucky Interlocal School Transportation Association (KISTA) issue - all with 100% locally-funded debt service.

The Subcommittee reviewed twenty-six state agency lease modifications and two new leases with annual rentals exceeding \$200,000.

The Subcommittee held a special meeting on February 4, 1993, to act on a request by the Finance and Administration Cabinet for a scope increase for the TWIST (The Worker's Information System) project in the Cabinet for Human Resources.

Since November 1992, the Subcommittee has held extensive discussions with administration officials concerning the state's debt levels and bond ratings, and with officials of the Lexington-Fayette Urban County Government concerning the property known as the "Ben Snyder block," purchased with budgeted state EDB proceeds as a site for the proposed Cultural Center.

**REPORT OF THE 1992/93
PERSONAL SERVICE CONTRACT REVIEW SUBCOMMITTEE**

Rep. Mark Farrow, Chair

Sen. Ed Ford
Sen. John Rogers
Sen. Eck Rose

Rep. Jesse Crenshaw
Rep. Bob Heleringer
Rep. Mike Ward

LRC Staff: Allan Alsip and Ann Disney

**PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

PERSONAL SERVICE CONTRACT REVIEW SUBCOMMITTEE

SUBCOMMITTEE JURISDICTION: The review of personal service contracts awarded by state agencies to determine whether the service is needed, whether the service could or should be performed by state personnel, and whether the cost and duration are excessive.

The Legislative Research Commission's Personal Service Contract Review Subcommittee has been in existence since July 1978. The General Assembly strengthened the Subcommittee's legislation in 1980 and again in 1982. Under present statutes (KRS 45.700 through 45.720), agencies of state government may not authorize work to begin on a personal service contract until it is filed with LRC and may not make payment on a contract until it is approved by the Subcommittee. Exceptions to the review process are: 1) Agreements between the Department of Parks and a performing artist or artists for less than five thousand dollars (\$5,000) per fiscal year per artist or artists; 2). Agreements with public utilities, foster care parents, Medicaid providers, individuals performing homemaker services, and transit authorities; 3) Agreements between a state agency and a state college or university, an area development district, a community action agency, a mental health/mental retardation board, another state agency, and a political subdivision; 4) Agreements between state universities and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority; 5) Agreements between a state agency and rural concentrated employment programs; and 6) Agreements between the State Fair Board and judges, officials and entertainers concentrated for events promoted by the State Fair Board. The Subcommittee does not have final authority to terminate a contract, but depends upon public scrutiny to assist in its recommendations. The Secretary of Finance may override recommendations of the Subcommittee regarding a disapproved contract, however, the Secretary must notify the Subcommittee of such action within 30 days. Such notification must be accompanied by an explanation for the action.

Being a statutory Subcommittee of the LRC, the Personal Service Contract Review Subcommittee met once a month (12 meetings) during the 1992-93 Fiscal Year. The Subcommittee reviewed 1,638 contracts and 732 amendments for the 1992-93 fiscal year. No contracts or amendments were disapproved. The Subcommittee also reviewed a total of 412 contracts for amounts under \$1,000, that are submitted for informational purposes only.

**REPORT OF THE 1992 - 93
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

**Senator Susan D. Johns, Chair
Representative C. M. "Hank" Hancock, Vice-Chair**

Sen. Fred Bradley
Sen. Tom Buford
Sen. Nick Kafoglis
Sen. Joey Pendleton
Sen. Dick Roeding
Sen. Larry Saunders

Rep. Adrian Arnold
Rep. Joe Barrows
Rep. Don Farley
Rep. Mark Farrow
Rep. Kenneth Harper
Rep. Richard Lewis
Rep. Harry Moberly, Jr.

EX-OFFICIO APPOINTMENTS

Rep. Bill Lear
Rep. Ramsey Morris
Rep. Louis Johnson
Rep. Jack Coleman
Rep. Tom Kerr

Study of Park System
Study of State Legal Services
Study of KACo
Study of Medicaid Utilization
Study of Unified Juvenile Code

LRC STAFF: Joseph Fiala, Assistant Director, Sheila Mason, Committee Staff Administrator, Anne Armstrong, Betty Davis, Richard Goodman, Michael Greenwell, Alice Hobson, Doug Huddleston, Adanna K. Hydes, Drew Leatherby, Henry Marks, John Snyder, and Jo Ann Blake, Bonnie Jezik and Susie Reed, secretaries.

**PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

COMMITTEE JURISDICTION: the Program Review and Investigations Committee is a 16-member bipartisan committee. According to KRS Chapter 6, the Committee has the power to review the operations of state agencies and programs, to determine whether funds are being spent for the purposes for which they were appropriated, to evaluate the efficiency of program operations and to evaluate the impact of state government reorganizations. Agencies are obligated to correct operational problems identified by the Committee, and must implement the Committee's recommended actions or propose suitable alternatives. Requests for studies may be made by any official of the executive, judicial or legislative branches of government. Final determination of research topics, scope, methodology and recommendations is made by majority vote of the Committee. Final reports, although based upon staff research and proposals, represent the official opinion of a majority of the Committee membership. Final reports are issued after public deliberations involving agency responses and public input.

COMMITTEE ACTIVITY

The Program Review and Investigations Committee held fifteen monthly meetings between June 1, 1992, and December 30, 1993. Ten studies were completed by the Committee.

Bureau for the Blind - Rehabilitation Center Site Selection. This study was requested by members of the General Assembly because of continuing controversy between the agency and program users over accessibility of the site. Generally, the problem with accessibility involved the local area clients. The site was generally favored by the agency offices being moved to the new facility and by the blind advocacy groups outside the Jefferson County area. The Committee supported the agency's responsibility for choosing a site which best served its needs. However, the Committee recommended that the agency actively work to develop more public transportation to the area and that it serve local client needs by providing transportation to the facility and satellite offices in proximity to the areas of client concentration. The Bureau agreed to implement these recommendations.

Bureau for the Blind - Interstate Vending Program. Two federal laws give priority to blind vendors for the provision of vending services; one law involves interstate highway vending, and one involves the support of state programs to develop and support business enterprises for the blind. In Kentucky the latter is a blind vendor program. State law gives blind vendors priority in providing vending services on state property. The Bureau for the Blind supports the training, setup and operation of blind vending stands. The interstate vending facilities are operated under a bid contract with a private, non-visually impaired vending firm. When originally bid to a private firm, according to language in the budget memorandum, 60% of the funds had to be set aside for a fund to develop and train blind vendors to operate the sites. Because of budget constraints and cutbacks, the Bureau became reliant on the interstate vending funds for their 3:1 federal matching funds, totalling an estimated \$2.3 million for FY 93. These funds provide services both to blind vendors and the entire blind community. Supporting the policy of developing employment opportunities for the blind, while recognizing that the state's fiscal condition would not support loss in agency receipts and related federal funds, the Committee recommended that the agency and blind community develop a viable plan to allow blind vendors to bid on the next contract.

Such a plan should be aimed at producing the same level of revenue as the private vendor realized.

Earmarked Taxes, Restricted Use and Off-Budget Funds. Almost \$14 billion in state revenues are restricted in use by law, by traditional budgeting or by administrative organization. Seven hundred twenty-seven million dollars in taxes and fees are restricted by law to particular uses, such as transportation and local government. Twelve billion dollars is in the control of off-budget entities, the largest proportion in retirement funds and bonding-related agencies. Five hundred sixty-eight million dollars is in debt service funds. Restricted taxes and fees, agency receipts and debt service funds are reported in the budget submitted to and approved by the General Assembly. Most of the off-budget funds are not reported to the General Assembly and, in general, the administering agencies are not required to submit annual reports to the executive or legislative branch. The only off-budget entities included in the state's accounting system are those that deposit funds in the state treasury. Many other off-budget entities may exist, such as agency-affiliated foundations, which exist in many forms.

This report was prepared for informational purposes and contained no recommendations.

92 SJR 69 - Out-of-Home Child Care Reimbursement. This study, requested by the 1992 General Assembly, focused on the cost and effectiveness of private versus public child care facilities in programs operated by the Department for Social Services, the fairness of the current reimbursement system, and the placement of children out-of-state. The staff draft report suggested changing from a percentage of cost reimbursement to a schedule of fees system, the use of bid proposals in developing new programs and services, the continued review and return of children placed in out-of-state facilities, and the resolution of problems in the funding of and provision of educational services.

Feasibility of the State Park System's Becoming a Self-Supporting Operation. Phase I of this study was completed in April 1993, in anticipation of a special session to determine the appropriation of a \$100 million bond issue for park rejuvenation. This phase looked at tourist trends and demands and compared these to park facilities. Needs related to renovation and maintenance problems with existing facilities were noted. The Department of Parks estimated its renovation, maintenance and new facility needs at \$300 million.

Provision of State Legal Services. This study was requested by the Attorney General's office and was prompted by the large expenditure in state government for in-house and contract legal services. The study looked at alternatives to the current process of maintaining individual agency legal sections. The Attorney General proposed consolidating legal services in his office. The Committee considered what needs could be consolidated and the potential impact on agency performance and cost.

Problems in the Implementation of the Unified Juvenile Code. The focus of this study was to identify problems related to implementation of the juvenile code experienced by those entities responsible for implementation. District judges, law enforcement agencies, prosecution and defense attorneys, court designated workers, Cabinet for Human Resources staff, school officials, county judges, and victim and juvenile advocacy organizations were interviewed and

surveyed. Numerous problems and concerns were identified. These included: lack of treatment facilities and local treatment options and use of detention, lack of appropriate punishments for juveniles, lack of parental responsibility, problems in cooperation and coordination, victims' concerns regarding lack of rights, and the cloak of confidentiality surrounding juvenile crimes.

Operation of Kentucky's Parole Board. This study began as a follow-up to a study of Kentucky's Parole System in the 1990-91 Interim. During the course of the follow-up several problems regarding the operation of the Board and the conduct of Board members were identified. These include: improper conduct during board hearings, parole decisions being made via telephone, payment of travel for business of questionable Board relevancy, dual full-time employment of a Board member, incorrect hearing minutes, and use of state equipment for private business purposes. The Governor was requested to take action. A new Parole Board chair has been appointed and the Committee has been working with the Board to draft legislation to alter the parole system and Board operations.

Kentucky Medical Assistance Program. A review of the Kentucky Medical Assistance Program was undertaken with assistance from the Auditor of Public Accounts and the Attorney General's office. The Program Review staff report identified problems and concerns with the policies, procedures and adequacy of activities in several areas, including: the KENPAC program of managed care; drug utilization; fraud and abuse detection and correction; questionable fiscal policies, such as forgiveness of debts, advance payments for poorly defined hardship reasons, and holding written checks for many months; unreconcilable data between the Department for Medicaid Services and its fiscal agent; failure to audit trust accounts as directed by statute; failure to audit or monitor implementation of multi-million dollar contracts with the Department of Social Insurance and with its fiscal agent; and very weak efforts for recovery of improper payments or third party liabilities. The Auditor of Public Accounts hired an independent consultant to compare Kentucky's fiscal agent contract to those of other states. Numerous suggestions were made to re-negotiate the existing contract and to significantly improve the next bid process. Several factors were identified which could produce substantial cost savings and improve services. The Auditor also made some suggestions concerning changes within the DMS to ensure that providers were properly monitored regarding status of licensure and criminal history.

Kentucky Association of Counties Self-Insurance and Capital Loan Programs. The Committee, with the assistance of the state's Auditor, the Attorney General and the Department of Insurance, reviewed the operation and administration of the self-insurance and trust funds established by interlocal agreements and administered through the Kentucky Association of Counties.

**REPORT OF THE 1992-93
KENTUCKY COMMISSION ON HAZARDOUS SUBSTANCE,
POLLUTANT, OR CONTAMINANT RELEASE AND REMEDIATION
(COMMISSION ON HB 540)**

Representative Mark Brown, Chair

Senator Charlie Borders

Representative Herbie Deskins, Jr.

Representative Don Farley

Senator Ed Ford

C. Gregory Higdon, Deputy Secretary
Natural Resources and Environmental Protection Cabinet

Senator Rick Rand

Phillip J. Shepherd, Secretary
Natural Resources and Environmental Protection Cabinet

LRC STAFF: Daniel J. Risch, Mary Lynn Collins, Gerard Donovan, and Jeanie Smith

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

KENTUCKY COMMISSION ON HAZARDOUS SUBSTANCE, POLLUTANT, OR CONTAMINANT RELEASE AND REMEDIATION

COMMISSION JURISDICTION: to provide recommendations to the Kentucky General Assembly on the implementation of House Bill 540, enacted by the 1992 General Assembly, and any other areas of study deemed necessary by the Commission, including the Committee Substitute for House Bill 540 reported from the House Committee on Natural Resources and Environment on March 5, 1992. House Bill 540 requires, among other things, that the Natural Resources and Environmental Protection Cabinet establish standards for cleaning up releases of hazardous substances, pollutants, or contaminants. The Commission is required to prepare a report and recommendations addressing the implementation of HB 540. The Commission may recommend funding and resources associated with its recommendations, which may include proposed legislation or administrative regulations.

COMMISSION ACTIVITY

The Commission has met once and has been granted approval for a second meeting to be held in November, 1993.

The Natural Resources and Environmental Protection Cabinet reported on the progress of implementing HB 540.

The cabinet has identified hazardous pollutants and contaminants and implemented the spill reporting requirements of the law. Informational brochures and presentations to interested groups and the general public have been used to disseminate information about the reporting requirements.

The cabinet has developed risk assessment guidelines to implement the risk-based approach to cleanups outlined in the bill. A next step will be to consider drafting individual regulations on risk assessment, risk characterization, and risk management, or one regulation combining all three topics.

The cabinet is still considering how to develop cleanup criteria. Under discussion is a proposal to use as a model the U.S. EPA risk assessment methodology for superfund sites.

One problem with the Cabinet's review of risk assessments is that a standardized review process has been slow in becoming operational.

Given the limited progress toward implementing HB 540, the second meeting will be scheduled as late as possible in the interim, in order to give the Cabinet as much time as possible to move forward on this mandate and to report any additional progress.

**REPORT OF THE 1992-93
TASK FORCE ON HEALTH CARE REFORM**

**Senator Eck Rose, Co-Chair
Representative Joe Clarke, Co-Chair**

Sen. Benny Ray Bailey
Sen. Charles Borders
Sen. Tom Buford
Sen. David Karem
Sen. John Rogers
Rep. Larry Clark
Rep. Thomas Jensen
Rep. Clarence Noland
Rep. Jody Richards
Kevin Hable
Mary Helen Miller
Robert Slaton, Ed.D.

Sen. Charlie Berger
Sen. Fred Bradley
Sen. Nick Kafoglis
Sen. Mike Moloney
Rep. Tom Burch
Rep. Danny Ford
Rep. Marshall Long
Rep. Kenny Rapier
Rep. Greg Stumbo
Brereton Jones, Governor
Joe Prather

LRC STAFF: Dianna McClure, Greg Freedman, Terry Jones, Bob Gray, Pam Lester, David Witt, Perry Nutt, Jack Affeldt, Ginny Wilson, Don Judy, Jamie Griffin, Kathy King, Rebecca Crawley, and Tonya Ashcraft.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON ACCESS

Senator David Karem, Co-Chair
Representative Jody Richards, Co-Chair

Sen. Fred Bradley	Sen. John Rogers
Sen. Tim Shaughnessy	Rep. Tom Burch
Rep. Thomas Jensen	Rep. Paul Mason
Brereton Jones, Governor	Joe Prather

Senator Eck Rose, Ex-Officio
Representative Joe Clarke, Ex-Officio

SUBCOMMITTEE ON COST CONTAINMENT

Senator Nick Kafoglis, Co-Chair
Representative Kenny Rapier, Co-Chair

Sen. Benny Ray Bailey	Sen. Charles Borders
Sen. Susan Johns	Rep. Clarence Noland
Rep. Ernesto Scorsone	Rep. Greg Stumbo
Mary Helen Miller	Robert Slaton, Ed.D.

Senator Eck Rose, Ex-Officio
Representative Joe Clarke, Ex-Officio

SUBCOMMITTEE ON FINANCE AND MEDICAID REVIEW

Senator Charlie Berger, Co-Chair
Representative Larry Clark, Co-Chair

Sen. Tom Buford	Sen. Mike Moloney
Sen. Gerald Neal	Rep. Danny Ford
Rep. Leonard Gray	Rep. Marshall Long
Kevin Hable	

Senator Eck Rose, Ex-Officio
Representative Joe Clarke, Ex-Officio

SPECIAL SUBCOMMITTEE

Senator David Karem, Co-Chair
Representative Kenny Rapier, Co-Chair

Sen. Benny Ray Bailey
Sen. Nick Kafoglis
Sen. Tim Shaughnessy
Rep. Larry Clark
Rep. Clarence Noland
Rep. Ernesto Scorsone

Sen. Charlie Berger
Sen. John Rogers
Rep. Tom Burch
Rep. Thomas Jensen
Rep. Jody Richards
Kevin Hable

Senator Eck Rose, Ex-Officio
Representative Joe Clarke, Ex-Officio

COMMITTEE JURISDICTION: 1993 Special Session House Bill 1 declared that the Task Force on Health Care Reform shall review all legislation on health care reform and other related issues now pending before the Second Extraordinary Session of the General Assembly for the purpose of developing comprehensive health care reform legislation.

TASK FORCE ACTIVITY

In 1992 the Governor established a 48-member Task Force on Health Care Access and Affordability and a 28-member Commission on Health Care Reform. The Task Force held a series of town forums throughout the Commonwealth and concluded by proposing incremental reform actions. The Commission was charged with developing draft legislation for consideration during a Special Session to be called by the Governor. No draft legislation was developed by the Commission. Instead, in September of 1992, the Governor issued a plan, Kentucky Health Care Reform, the elements of which were later included in 93 HB 4 and 93 SB 1 of the Second Extraordinary Session of 1993. The Governor issued a call for a Special Session on Health Care Reform for May 10, 1993. The Senate and House adjourned Sine Die on May 27, having enacted 93 HB 1, which created a Kentucky Health Care Data Commission; replaced certain Medicaid provider taxes with a new health care provider tax effective July 1, 1993; and imposed a tax on hospital gross revenues to partly finance a disproportionate share program for hospitals participating in the Medicaid program and providing indigent care.

Further, since no agreement had been reached on the Governor's health care agenda contained in House Bill 4 or Senate Bill 1, the provisions of House Bill 1 created a 25-member Task Force on Health Care Reform. The membership consists of the Senate President, the Speaker of the House of Representatives, 18 other leaders in the Senate and House, and 5 members appointed by the Governor. The Governor subsequently appointed himself as one of the five executive branch members. The statutory charge to the new Task Force on Health Care Reform was to review all legislation relating to health care reform and other related issues which

were pending before the Second Special Session and to develop comprehensive health care reform legislation. The Task Force was mandated to submit an initial progress report to the Legislative Research Commission and the Governor's Office no later than September 1, 1993. The Task Force held its first meeting on June 9, and divided its membership into three subcommittees: Access, Cost Containment, and Finance and Medicaid Review.

The Task Force held five meetings, two of which consisted of holding public hearings on recommendations of the Special Subcommittee of the Health Care Reform Task Force.

The Access Subcommittee held fourteen meetings through October and developed a report and set of recommendations.

The Cost Containment Subcommittee held ten meetings through October and developed a report and a set of recommendations.

The Finance and Medicaid Review Subcommittee held eight meetings through October and developed a set of forty-one recommendations related to the state Medicaid program.

In October, the Task Force created a Special Subcommittee which was charged with identifying areas of disagreement and achieving consensus between the recommendations of the Access and Cost Containment Subcommittees. The Special Subcommittee developed the following summarized set of recommendations for consideration by the Task Force on Health Care Reform.

I. Basic elements

- **Managed competition:** Individuals, employees of firms with 100 or fewer employees, and state, public health, university, and school employees, if they choose to purchase coverage, would purchase a standard comprehensive benefits package only from health plans that have contracts with health purchasing alliances. Health plans (HMOs, PPOs, insurers) would compete to attract individual enrollees by being efficient—that is, by offering the best service at the lowest price, not by attracting low-risk enrollees.
- **Insurance reform:** All health plans marketing through the alliance would be required to use modified community rating (varying premiums only by age, geography, and family size) and could not vary premiums based on experience or risk. All health plans (inside or outside the alliance structure) would be required to issue coverage to all who apply, to renew coverage upon request, and to cover all conditions after no more than a six-month waiting period. Plans offering coverage to larger employers could vary premiums based on specified risk-adjustment factors but could not vary them on the basis of claims experience.
- **Statewide health expenditure target and rate setting:** The Kentucky Health Policy Board would be responsible for setting payment rates for physicians and hospitals. All payers that pay on a fee-for-service basis and do not have contracts with providers would pay according to these rates. The Board would also establish

limits on the allowed rate of increase of health plan premiums. The Board would set rates so that state health expenditures would, over time, increase at a rate no greater than the rate of increase of state personal income.

II. Health Purchasing Alliance

- Two private non-profit alliances in the state, serving separate areas.
- The alliances governed by part-time seven-member boards of employer and consumer, selected by the Governor and by regional advisory boards (2 regional boards per alliance).
- Functions:
- Negotiate and contract with health plans to get best price for individuals and small groups covered through the alliance to ensure that all areas are adequately served.
- Enroll individuals in qualified health plans—individuals, employees of firms having workforce of 100 or fewer, state employees, public health department employees, school district employees, state higher education employees.
- Collect and distribute premiums (on risk-adjusted basis).
- Collect data and analyze to prepare “report card” on plan performance.
- Monitor and regulate plan marketing practices.
- Serve as ombudsman for consumer grievances not settled at plan level.
- Administration of alliances and advisory boards financed by a percentage of premium revenues not to exceed 3%.

III. Insurance market reform

- All insurers and health plans, regardless of whether they participate in the alliance, must meet these requirements:
- Guaranteed issue.
- Guaranteed renewal.
- No pre-existing condition limits longer than six months; no limits when person changes plans.
- Modified community rating: premiums adjustable only for age, geography, and family size for alliance plans. Plans serving larger employer may vary premiums using alliance-approved risk-adjustment factors.

- Marketing constraints.
- Electronic claims processing and data collection using standardized forms.
- Coverage of adopted children.

IV. Health Policy Board

- An autonomous government entity consisting of 5 full-time members appointed by the Governor for 4-year terms.
- Advised by 13-member panel of providers and 13-member consumer and purchaser panel.
- Annually sets physician fees (by July 1995) and hospital payment rates (by January 1995) consistent with keeping expenditures in line with growth in state personal income.
- Board-determined rates apply to payers who pay on a fee-for-service basis.
- Annually sets target expenditure limit for total state health expenditures: rate of increase to decline by 10% per year until equal to rate of increase in state personal income.
- Annually sets limits on allowable rate of increase of health plan and health insurance premiums by July 1, 1995.
- Annually set limits on expenditures for health equipment and facilities.
- Reviews and comments on health alliance budgets and overall performance.
- Collects data for risk-adjustment and health plan “report cards.”
- Defines standard benefit package (guided by Kentucky Kare and federally qualified HMO benefits) with two levels of cost sharing, and standardized supplemental benefits.
- Defines boundaries of health alliances and regional advisory boards.
- Assumes functions of current Kentucky Health Care Data Commission.
- Acts as arbiter between health professions licensure boards and examines requests for new licensing boards.

V. Primary Care

- Authorize Policy Board to set special (higher) rates for providers who serve in underserved areas.

- Authorize alliances to negotiate to encourage health plans to serve underserved areas, including bringing in primary care providers.
- Establish grants and financial incentives for medical school graduates going into primary care.
- Create regional family practice residency programs.
- Grant limited prescriptive authority to advanced registered nurse practitioners and physician assistants.

VI. Worker's Compensation

- Policy Board establishes pilot project for 24-hour coverage.

VII. Tax Incentive

- Permit self-employment deduction for purchase of health coverage.

VIII. Malpractice Reform

- Alternative dispute resolution required before going through malpractice suit.
- Policy Board makes recommendations for use of practice parameters in malpractice cases.

**REPORT OF THE 1992-93 INTERIM
SPECIAL SUBCOMMITTEE ON
A STATEWIDE INFORMATION SYSTEM**

**Senator Walter Blevins, Co-Chair
Representative William Donnermeyer, Co-Chair**

Rep. C. M. "Hank" Hancock
Rep. John Harper
Rep. Pete Worthington

Sen. Fred Bradley
Rep. Gex Williams

LRC STAFF: Jim Monsour, Danny Jackson, Gary Turner, and Holly Harrod

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SPECIAL SUBCOMMITTEE ON A STATEWIDE INFORMATION SYSTEM

SUBCOMMITTEE JURISDICTION: The Legislative Research Commission, at its July 1, 1977, meeting, appointed the Special Subcommittee on a Statewide Information System to study the feasibility of creating within state government a computer network to effect the transfer of financial information and public records between the various branches and agencies of state and local government. As advances in computer technology and the development of relational databases have proven such a network feasible, the subcommittee's activities have focused on directing the implementation of technologies and policies emphasizing centralized system planning, data sharing and access to automated government information by the public.

SUBCOMMITTEE ACTIVITY

The Special LRC Subcommittee on a Statewide Information System met twelve times during the 1992-93 Interim. Subcommittee membership was increased from four to eight members, pursuant to LRC appointments in July, 1992. Subcommittee work focused on:

- Assisting the Executive branch in establishing an administrative structure for coordinated geographic information system (GIS) development;
- Monitoring the conversion of LRC computer operations to a personal computer (PC)/local area network (LAN) configuration;
- Examining enhancements to currently operating computer systems shared by the three branches of government;
- Providing greater public access to computerized information created by the legislature; and
- Reviewing the work of the Kentucky Information Systems Commission (KISC), which is statutorily required to report to the legislature.

Coordinated GIS Development

At five of its first six meetings, the Subcommittee heard testimony from representatives of KISC, agency spatial data users, and the private sector on the need to establish a coordinated geographic information system (GIS) development effort, prior to the planned implementation of this technology by several agencies in the 1994-96 biennium. This need arises from the high cost of independent GIS development, the likelihood of redundant data collection, and the poor prognosis for data sharing outside the generating agency in the absence of system development guidelines, digitized data and transfer standards.

Early in the interim, efforts to coordinate GIS activity resulted in Executive Order 92-1049, issued October, 1, 1992, which created an Office of GIS (OGIS) in the Natural Resources and Environmental Protection Cabinet (NREPC) to provide GIS information and technical assistance, and established a Geographic Information Advisory Council to formulate a statewide

GIS plan and identify opportunities for resource sharing, collaborative procurement and joint application development.

At its last two meetings the Subcommittee reviewed a bill proposed by the Director of OGIS to move that office to the Finance and Administration Cabinet. The Subcommittee subsequently voted to prefile the bill.

Conversion of LRC Computer Operations

At five of the Subcommittee's meetings, LRC staff explained tasks, priorities, and time frames for the conversion of LRC's computer operations from centralized processing on a Wang minicomputer to network linked personal computers (PCs). It was learned that during the 1992-94 biennium a local area network (LAN) was being installed in the Capitol and Capitol Annex, PCs were being purchased for all LRC offices, research and leadership staff, and all applications residing on the Wang were being converted to the LAN environment.

To allow the computer needs of the members of the General Assembly to be considered in the conversion process, the subcommittee directed staff to poll the 1993 General Assembly, and adopted a motion that results of the survey be forwarded to LRC with the subcommittee's recommendations regarding legislator access to computers, legislative databases, and staff computer services. Legislators were surveyed in November, and survey results forwarded to LRC in April, 1993. Subsequently, in July, leadership serving on the Annex renovation panel invited Subcommittee participation in the design of proposed legislative offices to accommodate the installation of computers.

At its last meeting the Subcommittee learned that \$800,000 was earmarked in the LRC 1994-96 budget for data processing services to General Assembly members. It therefore recommended to LRC that: 1) a voice mail system for legislators, costing \$50,000, be implemented during the 1994-96 biennium; 2) constituent management software, to be provided by three vendors on a no-obligation trial basis, be made available to legislators during the 1994 Regular Session; and 3) KRS on CD-Rom provided by the official publishers, accessible by connection to the LRC LAN, be made available to legislators during the 1994 Regular Session.

Shared Computer Systems Development

Since 1985, the Subcommittee has been working to implement prerequisites for a statewide information system (network): namely, standardized financial data reporting, a computerized records management program, and public access to state-generated computerized information. To that end, the following operating systems, which provide data shared by the three branches of government, were reviewed at three Subcommittee meetings:

- A Centralized Budget Information System, provided by 1988 SB 16 and developed jointly by GOPM and LRC, to track state finances during the biennial budget cycle;

- A Public Records Management System, begun by the State Archives in 1986 with a federal grant, to identify computerized public records with research or archival value as they are created; and
- An Information Locator System, begun by the Department of Information Systems (DIS) in 1987, that provides access to government information and public records in computerized form from agency terminals statewide.

Of most concern to the Subcommittee was progress toward automation of the budget process. It was learned that GOPM and the LRC Budget Office jointly had abandoned further development of an executive information system (EIS) residing on mainframe computers operated by DIS, and in lieu thereof the LRC Budget Office was developing a sharable PC-based budget monitoring system with automated accounting data migrated from DIS mainframes. Budget expenditure reporting capabilities of the system under development were demonstrated at the April meeting .

At the Subcommittee's last meeting, LRC Budget Office staff stated that the expenditure reporting system would be enhanced to include appropriations data. It was also learned that agencies with connection to the WAN (Wide Area Network) maintained by the Department of Information Systems could now submit budget requests electronically to LRC. Agencies lacking this ability were being encouraged to connect for the next budget cycle, with assurance that budget instructions would be transmitted in this manner at that time.

Public Access to Computerized Legislative Information

1990 HB 84 established an Automated Legislative Information System to provide bill status and committee meeting information to public agency and private sector computer users. Additionally, it provides for computer access by public agencies to Kentucky Revised Statutes (KRS) and Kentucky Administrative Regulation (KAR) information, and permits LRC to promulgate regulations defining necessary terms and conditions for these computerized services.

Presently, LRC provides access via telephone line connection to bill status and committee meeting databases. Consequently, at four Subcommittee meetings progress toward providing access to KRS and KAR information was discussed with LRC staff. It was learned that the Statute Revisor's office is presently revising the KRS database to reflect format changes and to reconcile text with official versions published by Banks Baldwin and Michie legal publishers, and that text-searching software was currently being reviewed for purchase by staff.

During the interim additional automated legislative information services, such as providing the KRS on CD ROM, were deliberated by the Subcommittee, to determine the advisability of expanding services to the public and the legislature, conditions under which computer access could be granted, and whether other changes can be recommended. Because conversion to the LAN, reconciliation of the KRS database, and selection of searching software for KRS and KAR

data had not been completed by October, 1993, recommendations were delayed until after the 1994 Regular Session.

At its September meeting the Subcommittee transmitted a request to LRC that the KRS on CD ROM, 4 copies of which LRC currently receives, be made available on the LRC LAN for access by legislators. Additionally, the Subcommittee issued an invitation to three vendors of constituent software to provide their products for a 90-day, free, no-obligation evaluation during the 1994 Regular Session.

Kentucky Information Systems Commission

The Kentucky Information Systems Commission (KISC), comprised of representatives of agency computer users in state and local government, the press, and the public, is required to report to the legislature on a regular basis. It is charged with coordinating computer system development in the three branches of state government. The Subcommittee received KISC reports at its July, 1992 and September, 1993 meetings. KISC activity in the following areas was reported:

- Identification of the telecommunications needs of state and local government entities;
- Implementation of data processing standards and procedures recommended in the 1992-94 Statewide Information Resources Plan; and
- Revision of Information Policy legislation, and a bill restructuring KISC, both of which failed during the 1992 Regular Session.

Regarding telecommunications, at its November, 1992 meeting and September, 1993 meetings, the Subcommittee heard testimony from the Communications Advisory Council, an adjunct of KISC, regarding the implementation of a Statewide Integrated Telecommunications Network that will facilitate voice, data, radio, and video transmissions between government agencies and replace currently existing separate networks that have reached maximum capacity.

Regarding the implementation of data processing standards, KISC continues to develop the Kentucky Information Resources Architecture, released in conjunction with the statewide plan, and serving as the structure through which the Commonwealth's information policy is implemented. This structure is comprised of information, technology and organizational areas, viewed through three levels of computing: state-level, departmental and desktop.

Regarding information policy legislation, KISC recommended revisions to 92 HB 388 to distinguish between software and public records, provide for copies of public records in computerized format, and detail legal procedures for redress when access to, or copies of, computerized public records are not provided upon request. Additionally, it was recommended that 92 HB 861 be amended to rename KISC the Kentucky Information Resources Management

Commission, reduce its membership from 15 to 9, and redefine its charge to focus on 5-year statewide plans, revised biennially, which emphasize agency compliance with strategic initiatives. After review and modification of these proposed bills at two meetings, the Subcommittee voted to prefile both.

**REPORT OF THE 1992-93
SPECIAL SUBCOMMITTEE ON STATUTES
AND REGULATIONS PUBLICATION**

Senator Walter Baker, Chair

Sen. Jeffrey Green
Rep. Louis Johnson
Rep. Martin Sheehan

Rep. Thomas Jensen
Sen. Michael Moloney

LRC STAFF: John Spangler and Rita Ratliff

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SPECIAL SUBCOMMITTEE ON STATUTES AND REGULATIONS PUBLICATION

SUBCOMMITTEE JURISDICTION: This Subcommittee was created by the Legislative Research Commission to consider requests from outside the agency for use of LRC's statutory and administrative regulations databases and to develop recommendations for a policy for responding to these requests. The Subcommittee was also asked to review the existing arrangements for the publication of the Kentucky Revised Statutes and the Kentucky Administrative Regulations Service and to make any recommendations it believes appropriate to the Commission on this subject.

SUBCOMMITTEE ACTIVITY

The Legislative Research Commission authorized the creation of the Special Subcommittee on Statutes and Regulations Publication at its meeting on June 24, 1992.

The Subcommittee first met in July 1992 and began its work by reviewing the existing statutes relating to the statutes and administrative regulations and to legislative databases. Information was provided on the history and current status of the publication of the official editions of the Kentucky Revised Statutes.

At its second meeting, in September 1992, the Subcommittee considered requests from a number of governmental agencies and private entities for use of statutory or administrative regulations materials in partial printings, and for portions of LRC's databases in electronic formats. The Subcommittee made specific recommendations on these inquiries to the Commission and also recommended the adoption of a general policy for dealing with certain types of recurring situations. This policy was approved by the Commission at its October meeting. The Subcommittee received and began consideration of a statement of possible issues for its recommendations to the Commission.

In October 1992, the Subcommittee discussed a number of points on the current arrangements for publication of the Kentucky Revised Statutes, reaching preliminary consensus on several issues under its consideration. Committee staff was asked to attempt to develop a working draft for a written agreement with the publishers of the official editions of the Kentucky Revised Statutes.

In the absence of a quorum, no business was conducted at the Subcommittee's meeting in February 1993, but the three of the six members of the Subcommittee present reviewed the written responses from the publishers of the Kentucky Revised Statutes to the draft agreement that had been circulated. On the basis of these comments, there were to be further revisions of the agreements.

At its meeting in April 1993, the Legislative Research Commission approved a proposed new format for the Kentucky Revised Statutes, which a majority of the members of the Subcommittee had reviewed and supported. This new statute format is being used in the

programming for bill drafting and the statutory database on the agency's new local area network computer system.

On the agenda for its scheduled meeting in November 1993, the Subcommittee was to hear remarks from one of the statute publishers and to consider and make any appropriate recommendations to the Legislative Research Commission on requests that had been referred to it.

**REPORT OF THE 1992-93
TOBACCO TASK FORCE**

Rep. Donnie Gedling, Chair

Rep. Royce Adams
Rep. Woody Allen
Rep. Ray Altman
Rep. Adrian Arnold
Sen. Fred Bradley
Sen. Tom Buford
Rep. Jeffrey Buis
Rep. Denver Butler
Rep. Paul Clark
Rep. Jack Coleman
Rep. Mark Farrow
Rep. Walter Gee
Rep. Drew Graham
Rep. Clayton Little

Rep. June Lyne
Rep. Jim Maggard
Rep. Sam McElroy
Rep. Harry Moberly, Jr.
Sen. Virgil Moore
Rep. Ramsey Morris
Rep. Lonnie Napier
Sen. Joey Pendleton
Sen. Rick Rand
Rep. Richard Sanders, Jr.
Rep. John Stacy
Rep. Richard Turner
Rep. Pete Worthington
Rep. Jim Yates

LRC STAFF: Andrew Cammack, Brooks Talley, Linda Attkisson, and Diana Hill

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

TOBACCO TASK FORCE

JURISDICTION: matters pertaining to tobacco production, the price support program, no-net cost assessment, tobacco "pool," tobacco imports and exports, and any matter pertaining to the well-being of the tobacco industry.

TASK FORCE ACTIVITY

The Task Force met thirteen times during the 1992-93 interim.

A shortage of tobacco labor was the subject of several meetings of the Tobacco Task Force early in the interim. At the August 1992 meeting, members heard a discussion of the Community Farm Alliance's hotline, used to match tobacco laborers with farmers in need. Task Force members also had appropriate state agencies appear before them to explain how their programs can help address the farm labor problem, and whether government benefits recipients may work and still receive benefits. The Task Force found out that working part-time will not jeopardize workers' unemployment benefits, and an Aid to Families with Dependent Children (AFDC) benefits recipient may work and still retain at least part of the AFDC grant as well as a medical card. The task force urged state agencies to continue to look for ways to encourage benefit recipients to work in tobacco.

At the Task Force's August and October 1992 meetings, members examined the tobacco outlook, including the 1992 crop and market, and trends in imports and exports. A representative of the U.K. School of Agriculture noted that the burley crop, even though affected by wet weather and disease, would be the third largest ever, over 500 million pounds in Kentucky. But use of tobacco is down - cigarette consumption in the U.S. continues to decline and cigarette exports have leveled off. It was suggested that this would result in a buyers' market, with prices at or below last year. Pool stocks were expected to increase and the 1993 quota was expected to be lower. In addition, members were told that burley tobacco imports had increased 50% in the previous year.

Tobacco company representatives at the October meeting confirmed the large crop and softer demand, but noted that they were committed to Kentucky tobacco for the long term. They said the increased imports were due to the shift to cheaper "value priced" cigarette brands, which use more cheap foreign tobacco. Task Force members questioned whether the cost of the tobacco, as a percentage of overall costs for cigarette production, was significant enough to justify such a shift to imports. The Task Force indicated that imports would be investigated more thoroughly, along with the assistance U.S. tobacco companies provide overseas producers.

Some Task Force members expressed concern at the October meeting about a smoking policy proposed for the Cabinet for Human Resources. Also discussed was the possibility of a tobacco tax being proposed as part of the state's health care reform initiative. It was noted that presently the state reaps substantial income from selling cigarettes across her borders to states with higher tobacco taxes, and thus the effect of an increased tax on state revenues was unclear.

In November, the Task Force toured tobacco warehouses in Danville and Harrodsburg to observe burley sales and discuss tobacco concerns.

The Tobacco Task Force evaluated and addressed the Governor's proposed smoking policy at four meetings during the interim. On October 30, 1992, Governor Jones sent out a memo to all cabinet heads and constitutional officers with an attached smoking policy. The policy would prohibit smoking except in designated areas in state facilities, and state agencies were directed to submit their plans for implementing the policy. At the Task Force's December 21, 1992 meeting, Department of Finance and Administration officials discussed the policy. The policy was not final. Cabinet officials were continuing to meet with a group of farm/tobacco interests who had some problems with the policy and proposed some solutions.

Cabinet officials assured the Task Force that they were aware of the importance of tobacco to Kentucky and were open to suggestions on the policy. They said they would try to provide a well-ventilated, accessible space for smokers, hopefully on every floor of every state government building.

Task Force members stated that the Governor's originally proposed policy was not acceptable and asked what prompted its creation. Cabinet officials responded that the policy was created because of complaints about smoking, requests for non-smoking areas, and concerns over environmental tobacco smoke (ETS).

Members noted that Kentucky's policy sent a message to other states of a lack of commitment to tobacco. Others noted that the implementation of the policy would have significant costs. It was suggested that modifications to the policy should be made and the implementation deadline should be pushed back.

At the Task Force's January 25, 1993 meeting, Cabinet officials explained the revised policy (which became effective January 27 by emergency administrative regulation, with minor changes suggested by the Task Force) The policy allows smoking in state-owned or leased buildings occupied by executive branch agencies only in designated areas. It allows smoking in private offices under certain conditions. It requires devices which remove secondary smoke to be installed in designated smoking areas.

At the January meeting various tobacco groups expressed their remaining concerns regarding the policy. Though concern remained, most complimented the Cabinet for going out of its way to hear all views and attempting to develop a fair policy. Kentucky Department of Agriculture officials noted that several major concerns had been resolved. They thought the policy was fair and that if the state didn't initiate its own program, it would be forced to accept a federal program that could be harsher. Task Force members remained concerned about the policy.

At the April meeting, Task Force members brought up newspaper articles that suggested that several universities' smoking policies were more stringent than required and that smokers were being forced to smoke outside. University of Kentucky officials responded that until they had the resources to put in filtration devices, smoking areas would be outside. Cabinet officials

stressed that they would not deviate from their stated goals and that to every extent possible an even-handed policy would provide for smoking and non-smoking facilities in every executive branch facility. They pledged to work with the universities. Task Force members noted that they would fight the regulation if it forced people to smoke outside. Cabinet officials agreed this should not be the case.

At the April meeting the Task Force adopted a motion that asked the universities to provide an inventory of buildings where smoking was not presently allowed and to indicate how much it would cost to make a smoking area available in each building and when such changes would be implemented. The universities' response included a statement that air cleaning devices are not sufficient to protect non-smokers, that separate ventilation would be required for smoking areas. The Task Force later followed up with a reminder to the universities to submit the requested information, but it has not receive detailed accounts from most of them.

At the January 1993 Task Force meeting, a representative of the Burley Tobacco Growers Coop discussed the 1992-93 sales season and the coop's situation. He said that this year the pool (coop) took 120 million pounds of burley, at a cost of \$216 million. This is a major increase over the recent past and somewhat of an increase over what was predicted at the Task Force's October 1992 meeting. The coop representative noted that the burley quota formula dictated that a 22% cut was needed for 1993, but a provision in the law that expires at the end of 1993 limits the quota cut to 10%. One of the main reasons for the cut is lowered purchase intentions by tobacco companies, due primarily to increased imports. The representative indicated that the coop was not happy with this situation and would be working with farmers, tobacco companies, and the congressional delegation to improve the situation.

The Burley Coop representative followed up with additional information at the March meeting. He reported on various proposals to limit tobacco imports. The possibility of limiting foreign tobacco content in cigarettes was discussed at this meeting and at the June meeting, and such a bill was passed by Congress. Concerns were raised that the no net cost fee might increase if the coop continued to take large amounts of tobacco under loan.

Also at the January meeting, the tobacco seedling certification program was discussed. Because of problems with some tobacco seedlings being sold in the state, the 1992 General Assembly passed a law requiring certification of any tobacco seedlings sold. The University of Kentucky is responsible for the regulatory program and contracts with the Kentucky Seed Improvement Association (KSIA) for the actual certification of seedlings. The University of Kentucky had put together administrative regulations to carry out its part of the program. The Kentucky Seed Improvement Association operates on rules which are not codified in state administrative regulations. Task Force members were concerned about this lack of legislative oversight of KSIA. Members also felt that the 70 cents per 1,000 seedling charge for certification proposed by KSIA was too high.

One legislator suggested that if the penalties for violations of the certification program were higher, the program could be less extensive. The legislator suggested an alternative to certification which would require that those who sell seedlings be licensed, that records be kept to trace seedling problems, and that stiff penalties be in force. Under such a program, the farmer

could go to court to recover damages, and the regulatory agency would be able to identify the culprit.

Seedling certification came up again at the August meeting. Regarding the origin of the seedling legislation, one task force member noted that legislators thought there should be some controls over plants coming in from out-of-state and that they passed a law to address this. As it turned out, the program doesn't address disease problems, only varietal purity, and it applies to local as well as out-of-state growers. It was suggested that this was not necessarily what all those who wanted a program had in mind. At this meeting, a U.K. disease specialist suggested that a certification program is needed which requires minimum standards for seedling production, to address problems other than variety, such as disease.

Just prior to this meeting, the Administrative Regulation Review Subcommittee found the seedling certification regulations deficient. Discussions continued among legislators, the University of Kentucky, and Kentucky Seed Improvement Association officials on what changes needed to be made in the regulations, as well as in the law.

At the June 1993 meeting, members of the United Smokers Association discussed the Environmental Protection Agency's (EPA) recent report on *Respiratory Health Effects of Passive Smoking*.

The EPA's report claimed that passive smoke is a human carcinogen responsible for 3,000 lung cancer deaths annually in nonsmokers and that it causes various health problems in children. United Smokers Association representatives maintained that the EPA bent the rules of science in order to accomplish its objectives of showing harm to the American public. They said none of the EPA's studies were based on actual exposure to ETS, but rather on questionnaires. They said the EPA had to change the confidence intervals used in evaluating the studies to show any significance.

Task Force members expressed concern that if the study is not valid, it is most unfortunate, because the state has based a number of actions on it. Members asked EPA representatives to come before the Task Force to answer questions about the study. The EPA representatives responded that they had no money for travel and a meeting was never worked out. Congressional hearings were held on the study, however.

At the Task Force's October 1993 meeting, members heard a discussion of the current tobacco situation and outlook by a U.K. tobacco economist. He said in the first six months of 1993, quotas had been reduced 10 %, the pool took 20 % of marketings of the 92-93 marketing season, and imports have increased dramatically. He said a domestic content bill had been passed by Congress that would limit foreign tobacco in U.S. cigarettes to 25 %. This limit will increase domestic demand but decrease U. S. exports, with an expected net result of stabilizing demand at slightly below present levels for the near term.

At this meeting, the proposed cigarette excise tax to fund the President's health care plan was also discussed. The tax is expected to be \$.75 per pack and it could reduce U.S. cigarette consumption by 15 percent. It was noted that the upcoming market is expected to be relatively

weak, with perhaps 100 million pounds of tobacco going to the pool and prices near last year's levels.

In November, the Task Force toured opening day burley sales at warehouses in Springfield and Lebanon.

In December, the Task Force planned to examine the practice of using a farm's tobacco quota in the property tax valuation. The Task Force also planned to hear from the Burley Coop on the large amount of tobacco going under loan to the pool in recent sales. The Tobacco seedling certification program was also expected to be revisited.

**REPORT OF THE 1992-93
SPECIAL SUBCOMMITTEE ON VETERANS' AFFAIRS**

**Representative Eddie Ballard, Chair
Representative Jim Maggard, Vice-Chair**

Rep. Russell Bentley
Sen. David Boswell
Rep. James Bruce
Sen. Gene Huff
Sen. Dan Kelly
Rep. Bill Lile
Sen. Danny Meyer

Sen. Virgil Moore
Rep. Ramsey Morris
Rep. Lonnie Napier
Rep. Steve Riggs
Sen. Larry Saunders
Rep. Richard Turner
Rep. James Yates

LRC STAFF: Kent Downey and Shirley Hart

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1994 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SPECIAL SUBCOMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE JURISDICTION: gather information, set legislative priorities, and act as a sounding board on behalf of Kentucky veterans relative to issues affecting them.

SUBCOMMITTEE ACTIVITY

The Subcommittee held 13 meetings between August 24, 1992, and October 25, 1993. The following issues were discussed: the establishment of veterans' cemeteries; the establishment of two additional state-run satellite veterans' nursing homes; the status of tax exemption for military retirees; the establishment of November 11, Veterans' Day, as a Kentucky state holiday; the establishment of a permanent Veterans' Affairs Committee of the Kentucky General Assembly; educational benefits to veterans and their dependents; issuance of various veterans' license plates; flag desecration; and the re-establishment of the Special Subcommittee on Veterans' Affairs.

The Subcommittee adopted the following resolutions: opposing admittance of gays and lesbians to the United States Military; urging the Kentucky Congressional Delegation to look into the financial problems of the self-employed reservists who were called up for Operation Desert Storm and to reconsider passage of legislation to provide relief; honoring Carl E. Gordon, Sr.; honoring Lieutenant Colonel George B. Thomson; and memorializing of Jim Hunt.

At the October 25 meeting, the Subcommittee pre-filed 94 BR 424 and 94 BR 425, requesting and petitioning the Congress of the United States to propose, for submission to the states, an amendment to the United States Constitution to prohibit the physical desecration of the American flag.