

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

**2001**

**Informational Bulletin No. 206**

**Legislative Research Commission  
Frankfort, Kentucky  
January 2002**



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

**2001**

Presented to the  
**Legislative Research Commission  
and the  
2002 Kentucky General Assembly**

Edited by  
**Tom Lewis**

**Informational Bulletin No. 206**

**Legislative Research Commission  
Frankfort, Kentucky  
January 2002**

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## **FOREWORD**

Until 2000, the Kentucky Constitution limited 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. In 2000, the voters of Kentucky approved a constitutional amendment authorizing the General Assembly to meet for up to thirty days in odd-numbered years, convening on the first Tuesday after the first Monday in January, and adjourning not later than March 15. The first odd-year Regular Session was held in 2001.

During the 2001 interim, 13 of the 14 interim joint committees held meetings, and nine special committees were authorized by the Legislative Research Commission. Of the eight statutory committees, seven met during the 2001 interim.

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 2001 General Assembly. The reports were prepared separately by the committee staff and were compiled and edited by Tom Lewis, Research Editor.

Robert Sherman  
Director

The Capitol  
Frankfort, Kentucky  
December 2001



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**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON  
AGRICULTURE AND NATURAL RESOURCES**

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

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

LRC STAFF: Dan Risch, Biff Baker, Tanya Monsanto, D. Todd Littlefield, Hank Marks,  
Brad Wellons, Sheri Mahan, and Kelly Blevins

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES**

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

### **COMMITTEE ACTIVITY**

The Interim Joint Committee on Agriculture and Natural Resources met three times following adjournment *sine die* of the 2001 General Assembly. The Committee's attention was fairly split between the subjects of agriculture, natural resources, and the environment.

The Committee began its study of agriculture by meeting in conjunction with the State Fair Board during the State Fair. The meeting allowed the members to participate in the Farm Day fair activities and to visit agricultural community leaders from around the state. In addition, the Committee received monthly reports from the Agricultural Development Board on the disbursement by the Board of tobacco master settlement agreement funds. Also, information was gathered on what has come to be known as Mare Reproductive Loss Syndrome, a phenomenon that occurred in the spring of the year that resulted in the deaths of hundreds of foals and horse fetuses. Finally, a report was taken by the Committee on the state's efforts to assist farmers to properly dispose of dead animals.

On the subject of natural resources, the Committee provided an opportunity to a new Commissioner of the Department of Mines and Minerals to introduce himself to the Committee. Besides the introduction, the Commissioner also gave a snapshot of the beginning implementation of a 2001 law that aims to improve coal mine safety through more vigorous enforcement of mine safety law violations.

Bridging the subjects of natural resources and the environment, power plant development in Kentucky was discussed. National trends in energy production has led to a spike in proposed power plant development and many new plants have sought to be permitted in Kentucky. Concurrently, the U.S. EPA has directed several midwestern states, including Kentucky, to reduce emissions of nitrous oxides (NOx) from power

plants. The Committee attempted to learn more about the consequences of these conflicting events.

Finally, the Committee allowed a broad array of interested parties to present their views on the state's mechanisms for managing solid waste in the state.

### **Administrative Regulations**

The Committee has jurisdiction over state agencies that have promulgated approximately 28 percent of all executive branch administrative regulations.

This past year the Committee received for review 41 administrative regulations. These regulations related to programs of the Governor's Office of Agricultural Policy, the Department of Fish and Wildlife Resources, the Department for Surface Mining Reclamation and Enforcement, and the Divisions of Air Quality, Water, and Forestry in the Natural Resources and Environmental Protection Cabinet.

The Committee reviewed three of the 41 regulations. Two of the regulations, both related to establishment of a grants program for aquaculture business ventures, were found to comply with statutory authority. No action was taken on the third regulation, which related to regulating concentrated animal feeding operations. The Committee noted that a similar version of the regulation had been reviewed previously and found not to comply with statutory requirements.

### **Reorganization Plans**

The Committee received for review and reporting to the Legislative Research Commission the following Reorganization Plans:

- 2001-485      Establish the Office of General Counsel in the Department of Mines and Minerals.
  
- 2001-1215    Create the Office of Financial Management in the Natural Resources and Environmental Protection Cabinet.

Because of the inability to schedule meeting time within the statutorily prescribed review period, Executive Order 2001-485 was not reviewed by the Committee. Executive Order 2001-1215 was placed on a Committee agenda but was not reviewed.

### **Reports Received**

The 2001 General Assembly enacted Senate Bill 2, AN ACT relating to environmental protection. The Committee received a report on the implementation of this Act which created a program to encourage the redevelopment of land contaminated or suspected to be contaminated by hazardous waste.

**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON  
APPROPRIATIONS AND REVENUE**

**Senator Richard Sanders, Jr., Co-Chair  
Representative Harry Moberly, Jr., Co-Chair**

Rep. Royce Adams	Sen. Vernie McGaha
Rep. Rocky Adkins	Rep. Thomas McKee
Rep. Joe Barrows	Sen. Ed Miller
Rep. Dwight D. Butler	Sen. Daniel Mongiardo
Rep. Jim Callahan	Rep. Lonnie Napier
Rep. Mike Cherry, VC	Sen. Gerald A. Neal
Rep. Larry Clark	Rep. Fred Nesler
Rep. Jack L. Coleman, Jr.	Rep. Stephen R. Nunn
Rep. Barbara Colter	Sen. Larry Saunders
Rep. Jesse Crenshaw	Sen. Dan Seum
Rep. Robert Damron , VC	Sen. Tim Shaughnessy
Rep. Bob M. DeWeese, VC	Rep. Charles L. Siler
Rep. Danny R. Ford	Rep. John Will Stacy
Sen. Brett Guthrie	Sen. Robert Stivers
Rep. Bob Heleringer, VC	Rep. Mark A. Treesh
Rep. Joni Jenkins, VC	Sen. Johnny Ray Turner
Sen. Dan Kelly	Rep. John Vincent
Sen. Alice Kerr	Rep. Jim Wayne
Rep. Jimmie Lee	Rep. Robin Webb, VC
Sen. Bob Leeper, VC	Sen. Jack Westwood
Rep. Mary Lou Marzian	Rep. Rob Wilkey

LRC STAFF: Terry K. Jones, Lou Pierce, Susan Viers Wobbe, and Kathy King

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

### **SUBCOMMITTEE ON TAX POLICY ISSUES**

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

Rep. Jim Callahan  
Rep. Larry Clark  
Rep. Barbara White Colter  
Sen. Dan Kelly  
Sen. Alice Kerr  
Rep. Jimmie Lee  
Sen. Robert Leeper

Sen. Ed Miller  
Rep. Lonnie Napier  
Sen. Gerald A. Neal  
Sen. Larry Saunders  
Sen. Dan Seum  
Rep. Mark Treesh  
Rep. Rob Wilkey

### **Subcommittees on Legislative Budget Review and Oversight**

#### **BUDGET REVIEW SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, NATURAL RESOURCES AND TOURISM**

**Sen. Vernie McGaha, Co-Chair**  
**Rep. Rob Wilkey, Co-Chair**

Rep. Jim Callahan  
Rep. Larry Clark  
Rep. Lonnie Napier  
Rep. John Vincent  
Rep. Ruth Ann Palumbo, Ex-Officio

Sen. Walter Blevins, Liaison Member  
Rep. John Bowling, Liaison Member  
Rep. Buddy Buckingham, Liaison Member  
Rep. Phillip Childers, Liaison Member  
Sen. Katie Stine, Liaison Member

LRC BUDGET REVIEW STAFF: Marla Lewis, Kim Phelps, and Carol Coleman

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EDUCATION**

**Sen. Dan Seum, Co-Chair**  
**Rep. John Will Stacy, Co-Chair**

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

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

**BUDGET REVIEW SUBCOMMITTEE ON  
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Sen. Ed Miller	Rep. Carolyn Belcher, Liaison Member
Rep. Charles L. Siler	Sen. Albert Robinson, Liaison Member
Rep. Jim Wayne	Rep. Jim Thompson, Liaison Member
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LRC BUDGET REVIEW STAFF: Sharon Cantrell, Jim Cozine, Karen Hilborn Crabtree, Marla Lewis, and Cassandra McNeil

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Rep. Bob Heleringer	Sen. Richard Roeding, Liaison Member
Rep. Joni Jenkins	Rep. Dottie Sims, Liaison Member
Sen. Daniel Mongiardo	Rep. Kathy Stein, Liaison Member
Rep. Stephen Nunn	
Rep. Tom Burch, Ex-Officio	

LRC BUDGET REVIEW STAFF: Wanda Meeks, Cindy Murray, and Cassandra McNeil

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**Rep. Jesse Crenshaw, Co-Chair**

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Rep. Thomas McKee  
Sen. Robert Stivers  
Rep. Robin L. Webb  
Rep. Gross Lindsay, Ex-Officio

Rep. Ira E. Branham, Liaison Member  
Rep. Arnold Simpson, Liaison Member  
Rep. Brent Yonts, Liaison Member

LRC BUDGET REVIEW STAFF: Steve Mason, Kim Phelps, and Bettina Abshire

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**Rep. Rocky Adkins, Co-Chair**

Rep. Mike Cherry  
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Rep. Danny Ford  
Rep. Fred Nesler  
Rep. Hubert Collins, Ex-Officio

Rep. John Arnold, Jr., Liaison Member  
Rep. Eddie Ballard, Liaison Member  
Sen. Paul Herron, Jr., Liaison Member  
Sen. Virgil Moore, Liaison Member  
Rep. William U. Scott, Liaison Member

LRC BUDGET REVIEW STAFF: Doug Teague and Carol Coleman

**Ex-Officio Members:**  
**Sen. Richard Sanders, Jr.**  
**Rep. Harry Moberly, Jr.**



## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE**

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

### **COMMITTEE ACTIVITY**

During the 2001 Interim, the Interim Joint Committee on Appropriations and Revenue held two meetings prior to November 1, 2001. The September meeting was held in Paducah, Kentucky, at Paducah Community College, and the October meeting was held in Richmond, Kentucky, at Eastern Kentucky University.

Major topics before the Interim Joint Committee on Appropriations and Revenue included reports on revenue receipts; consensus forecasting revenue estimates; budget reductions required for FY 2001-2002; the status of local school facilities construction projects and bonding potential of local school districts; and input from area officials and citizens on issues of interest and the needs and priorities of the area. The Committee also reviewed and took action on quarterly allotment and appropriation revisions as recommended by the State Budget Director in accordance with KRS 48.630.

The Committee did not take action on any prefiled bills.

The Interim Joint Committee on Appropriations and Revenue is authorized to meet in November; however, the agenda has yet to be determined at this time.

### **SUBCOMMITTEE ACTIVITY**

#### **Subcommittee on Tax Policy Issues**

2001 HJR 30 created a subcommittee of the Appropriations and Revenue Committee to study tax policy issues. The subcommittee has met seven times over the course of the interim. Meetings covered the history of tax reform initiatives in Kentucky, testimony from industry representatives, and presentations from the subcommittee's special consultant.

At its first meeting, in April 2001, the State Budget Director and the Secretary of Revenue appeared before the subcommittee to provide a historical background of Kentucky's tax reform, including the 1995 Kentucky Commission on Tax Policy. The subcommittee also discussed the various tax cuts that have been made in the last few

years, the tax package proposed by the Governor in the 2000 Regular Session, and the national Tax Simplification Project.

At its second meeting, in May 2001, a senior policy specialist with the National Conference of State Legislatures appeared before the subcommittee to present information on trends and recent activity in state tax actions as well as the principles of a high quality revenue system.

At its third meeting, in June 2001, the subcommittee heard a presentation from its consultant on whether Kentucky's tax structure was right for the future. The consultant focused on state versus local tax collections, strengths of Kentucky's tax structure, issues in Kentucky's tax structure, various tax rates across the country, and growth in state tax collections.

At its fourth meeting, in July 2001, the subcommittee heard an update from the Director of the Division of Legal Services and Protest Resolution, Revenue Cabinet, and the Director of the Division of Tax Policy, Revenue Cabinet, regarding pending litigation involving the Revenue Cabinet and an overview of 1979 HB 44, relating to Kentucky's property tax. The subcommittee's consultant also appeared before the Committee to present on selected tax topics, which included discussion on 1979 HB 44, taxation of LLCs, and taxation of telecommunications.

At its fifth meeting, in August 2001, the subcommittee held a two-day meeting and took testimony regarding taxation from a variety of industry groups, including Kentucky Chamber of Commerce, Kentucky Coal Association, Kentucky Youth Advocates, Catholic Conference of Kentucky, Cors and Bassett, LLC, Representative Bob Damron, Gainesway Farm, Kentuckians for Better Transportation, Kentucky Motor Transport Association, Inc., Kentucky Truck Stop Operators Association, Home Builders Association of Kentucky, and Drees Homes.

At its sixth meeting, in September 2001, the subcommittee's consultant appeared before the Committee to address six aspects of testimony heard at the August meeting and whether industry concerns raised are legitimate concerns. The issues discussed were business tax burdens, sales tax holidays, fuel and vehicle taxes, low income tax burdens, tax treatment of S Corps, and horse racing/gaming issues.

At its seventh meeting, in October 2001, the subcommittee heard more industry testimony from Turfway Park, American Lung Association of Kentucky, and Kentucky League of Cities. The subcommittee's consultant also reviewed Committee activities to date and discussed possible options for tax reform in Kentucky. He reviewed the basic characteristics of the Kentucky state and local tax system, revenue effects of reform, changes that could reduce revenues, and changes that could raise revenues.

The subcommittee is authorized to meet in November; however, the agenda has yet to be determined at this time.

The subcommittee has not made any formal recommendations at this time with regard to tax policy issues. The resolution directs the subcommittee to submit its findings to the Interim Joint Committee on Appropriations and Revenue before the start of the 2002 Regular Session, and the subcommittee is authorized to meet until April 15, 2002.

### **Budget Review Subcommittees**

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

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

The Budget Review Subcommittee on General Government, Finance, and Public Protection has met one time during the 2001 Interim. The subcommittee heard presentations from the Finance and Administration Cabinet on issues anticipated to be discussed during the 2002 Session of the General Assembly as they relate to the Cabinet, the Department of Agriculture regarding the Dead Animal Removal and Animal Shelter Programs, and the Kentucky Infrastructure Authority regarding the 2020 Water Program. The subcommittee also reviewed 23 requests for interim appropriations increases from the various agencies under the subcommittee's jurisdiction totaling \$6,463,400 in Restricted Funds and \$2,578,527 in Federal Funds.

#### **Budget Review Subcommittee on Economic Development, Natural Resources, and Tourism**

The Budget Review Subcommittee on Economic Development, Natural Resources, and Tourism did not meet during the 2001 interim.

#### **Budget Review Subcommittee on Education**

The Budget Review Subcommittee on Education did not meeting during the 2001 interim.

### **Budget Review Subcommittee on Human Resources**

The Budget Review Subcommittee on Human Resources has met one time during the 2001 Interim. Eight requests for interim appropriations increases were reviewed and recommended for approval to the Interim Joint Committee on Appropriations and Revenue. Included in these requests were two for the Cabinet for Families and Children, totaling \$25 million in additional Federal Funds, and six for the Cabinet for Health Services totaling \$34,800,500 (\$19,134,900 in additional Restricted Funds and \$15,665,600 in additional Federal Funds). In addition, the subcommittee heard testimony from the Cabinet for Families and Children and the Cabinet for Health Services related to the FY 2001-02 General Fund Budget Reduction Order 02-01.

### **Budget Review Subcommittee on Justice, Corrections, and Judiciary**

The Budget Review Subcommittee on Justice, Corrections, and Judiciary has met one time during the 2001 Interim. The meeting agenda included a discussion of the FB 2000-2002 budgets and the impact of the FY 2001-02 General Fund reductions for the Justice Cabinet and Judicial Branch. In addition, the subcommittee reviewed requests for interim appropriations increases from the Department of Corrections and the Justice Administration budget units. The requests from the Department of Corrections totaled \$210,400 in Restricted Funds and \$127,500 in Federal Funds. The requests from the Justice Administration budget unit totaled \$299,987 in Restricted Funds.

### **Budget Review Subcommittee on Transportation**

The Budget Subcommittee on Transportation held one meeting during the 2001 Interim. The subcommittee recommended approval of three requests for interim appropriations increases totaling \$7,535,000 in Restricted Funds and \$92,000 in Federal Funds. In addition, the subcommittee received a status report and revenue projections relating to the Road Fund from the Director of the Office of Policy and Budget, discussed the pre-financing of road projects with the Commissioner of the Office of Fiscal Management, and received a status report of state highway projects and the state's Six-Year Road Plan projections from the State Highway Engineer.

**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON  
BANKING AND INSURANCE**

**Senator Tom Buford, Co-Chair  
Representative James Bruce, Co-Chair**

Sen. Lindy Casebier  
Sen. Bob Jackson  
Sen. David Karem  
Sen. Albert Robinson  
Sen. Larry Saunders  
Rep. John Adams  
Rep. Sheldon Baugh  
Rep. James Comer  
Rep. Ron Crimm  
Rep. Mike Denham  
Rep. Danny Ford  
Rep. Dennis Horlander  
Rep. Steve Riggs  
Rep. Roger Thomas  
Rep. Susan Westrom

Sen. Julie Denton  
Sen. Ray Jones II  
Sen. Marshall Long  
Sen. Richard Sanders, Jr.  
Sen. Dan Seum  
Rep. Paul Bather  
Rep. Ira Branham  
Rep. Brian Crall  
Rep. Robert Damron  
Rep. Joseph Fischer  
Rep. James Gooch  
Rep. Frank Rasche  
Rep. Dottie Sims  
Rep. Ken Upchurch  
Rep. Rob Wilkey

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

**PRESENTED TO THE  
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AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE**

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

### **COMMITTEE ACTIVITY**

The Interim Joint Committee on Banking and Insurance met three times during the 2001 interim.

The first meeting of the Committee was held on August 28, 2001. The Committee heard testimony on the progress of Kentucky Access from the Commissioner of the Department of Insurance and the Executive Director of Kentucky Access. The 2000 General Assembly enacted legislation that created Kentucky Access as an alternative insuring mechanism for individuals unable to purchase affordable health insurance coverage in the private market due to medical conditions or higher premiums. The number of applications to Kentucky Access has increased each month since it began operating on January 1 of this year. As of the end of July 2001, Kentucky Access had received 634 applications, of which 511 are approved and 123 are pending. The targeted population for Kentucky Access is projected to be between 3,000 and 5,000 persons. Kentucky Access is funded in part by tobacco settlement funds. The Commissioner and the Deputy State Budget Director explained the transfer of \$10.1 million from the Kentucky Access Fund to the General Fund to help prevent a deficit in General Fund revenues. The Deputy State Budget Director testified that the administration remains committed to Kentucky Access.

The Committee also was addressed by the Secretary of the Personnel Cabinet, who gave an overview of the 2002 state employee health insurance contract. The Secretary pointed out that the trend shows active state employees decreasing as a percentage of the state group, while retirees are increasing. The Secretary also discussed the effect of adding active employees of local governments and regional universities to the state employee group. Currently retirees of local governments and regional universities are members of the group.

The Committee held its second meeting on September 25, 2001. The Committee adopted a resolution condemning the September 11, 2001 terrorist attack on America; supporting the President of the United States, the United States Congress, and the United

States military; and commending the Federal Reserve and the United States banking system on its efforts to keep financial markets functioning and to stabilize the nation's financial system. The Committee discussed a situation in Boyle County where state employees who choose an HMO plan for 2002 will not be able to use their local hospital in Danville. Three HMOs and the hospital in Danville were invited to the meeting. The HMOs testified that it is a business decision not to bid on some counties. One HMO testified that medical costs in Boyle County were 30 percent higher than costs in other counties in the HMO service area. By bidding in Boyle County, the HMO would have had to increase its rates in the entire service area by an additional eight percent. The HMO suggested that regional rating be allowed under the state employee group plan. The Secretary of the Personnel Cabinet agreed to a request of the Committee that open enrollment be extended for certain counties due to conflicting information on whether there are sufficient provider networks serving those counties.

The Committee held its third meeting on October 23, 2001. The Secretary of the Personnel Cabinet addressed the Committee on the first annual report of the Kentucky Group Health Insurance Board. Legislation enacted in 2000 required health insurers to submit data on their state employee health insurance business to the Personnel Cabinet. The legislation also created the Board and charged it with reviewing the data and making an annual report by October 1 to the Governor, General Assembly, and Kentucky Supreme Court. The Board found that active employees are decreasing as a percentage of the state employee group and retirees are increasing as a percentage of the group. The report also points out that 88% of the states subsidize, to some extent, family coverage, but Kentucky does not. The states that subsidize family plans require individuals to pay from eight to 15 percent of the individual premium. The report recommends allowing members to use mail order for drugs. It is estimated that a mail order option could save the plan up to one percent of its prescription drug costs for every ten percent of prescriptions filled through mail order. Another recommendation is that all money left over in flexible spending accounts be returned to the state employee health insurance program. Currently all agencies do that, except local school boards.

Also at the October 23 meeting, the Committee discussed with the major auto insurers in Kentucky the use of gender in determining automobile insurance rates. One insurer stated that young male drivers are involved in 50 percent more fatal accidents than young female drivers. The insurer estimated that if gender rating was eliminated in Kentucky the rates for young female drivers would increase 6.8 percent. The Committee discussed whether the real factor was miles driven and whether gender rating was sex discrimination.

**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON  
ECONOMIC DEVELOPMENT AND TOURISM**

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

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

LRC STAFF: Mary Yaeger, John Buckner, Laura Taylor, and Jessica Graves

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

### **Task Force on Economic Development**

#### **Rep. Ruth Ann Palumbo, Chair**

Rep. Rocky Adkins  
Rep. Scott Brinkman  
Rep. John Bowling  
Rep. Buddy Buckingham  
Rep. Perry Clark  
Rep. Howard Cornett  
Rep. Jesse Crenshaw  
Rep. Tim Feeley  
Rep. Charles Geveden  
Rep. Gippy Graham

Rep. Dennis Horlander  
Rep. Stan Lee  
Rep. Gross Lindsay  
Rep. Russ Mobley  
Rep. Tanya Pullin  
Rep. Tom Riner  
Rep. Brandon Smith  
Rep. Charles Walton  
Rep. Mike Weaver

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



## **INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM**

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

### **COMMITTEE ACTIVITY**

During the 2001 Interim, the Interim Joint Committee on Economic Development and Tourism meet once on September 20, 2001. The Task Force on Economic Development did not meet during the interim.

At its meeting the Committee learned about the measures taken to secure the state's electronic data from the Chief Information Officer for the Commonwealth and the Acting Security Director. The Governor's Office of Technology (GOT) discussed the state's investment in security. These efforts included increasing staff from four to eleven, securing buildings that deal with sensitive information, implementing virus avoidance measures, and setting forth security policies and procedures. GOT has also taken steps to protect the invisible infrastructure in the state with firewalls and has invested in anti-intrusion software and devices so that they are notified when someone is trying to "hack" into the system.

The Committee heard testimony from agency heads who represent the areas of jurisdiction covered by the Committee. The Secretary of the Cabinet for Economic Development discussed the past and current strategic planning process. The strategic planning process has been instrumental in creating various initiatives, and he felt it was successful in achieving its mission, which is to create more and higher quality opportunities for all Kentuckians by building and expanding a sustainable economy.

The Secretary explained that the Partnership Board is currently revisiting the plan and has asked an economist from the University of Louisville to study the prosperity in Kentucky compared to that in other states. The University of Louisville economist said that the goal of the study was to look at the performance of Kentucky's regions since the Partnership Board was created in 1992. He noted that on the positive side business establishments and jobs have grown, and earnings per job have increased. On the negative

side, average earnings per job are at least \$3,000 below the national average and enrollment in Kentucky colleges has been fairly flat. The report also made several recommendations to promote economic development.

Several Committee members encouraged the Secretary to make every effort to expand the coal industry. The Secretary noted that recent legislation encourages the use and mining of Kentucky coal by giving tax credits and making utilities and others eligible for programs that they had not been eligible for in the past.

The Commissioner of the New Economy within the Cabinet for Economic Development explained his role in implementing the Kentucky Innovations Act, passed in the 2000 Regular Session. His office is working on a strategy to implement the legislation. He said that the goal of the initiative is to “create a globally competitive innovation process sustained by an entrepreneurial climate and fueled by world-class resources resulting in a continuously higher standard of living for all Kentuckians.” The Commissioner explained that the primary difference between this new economy and the industrial economy is that in this new economy we invest our resources in the intellectual pool rather than the physical plant. It is driven by knowledge and innovation, and science plays a very critical role in it as well. Kentucky’s position in the new economy will be improved by building a knowledge-based economy with such tools as the Kentucky Education Reform Act, Postsecondary Reform, “Bucks for Brains,” and finally, the Kentucky Innovation Act. The Commissioner said that Kentucky is on its way to building a strong infrastructure by targeting new economy areas for special attention. These areas include research and development, human health and development, biosciences, information technologies and communications, materials science and advanced manufacturing, and environmental and energy technologies.

The President of the Kentucky Science and Technology Corporation then spoke on their organization’s role in implementing the Kentucky Innovation Act. He stated that all of the programs that the Kentucky Science and Technology Corporations is responsible for are now operational. He described the programs funded under the legislation and said that applications can be accessed at the website he provided.

The Secretary of the Tourism Development Cabinet presented information regarding the Kentucky Tourism Development Act. She explained the main provisions of this Act, which was the first of its kind in the nation, and described projects that have been approved. She also discussed the Small Loan Program for Tourism Businesses, which has a pool of \$1.5 million. Additionally, she explained that the legislature created a seven member panel called the Kentucky Tourism Development Finance Authority to oversee all of the tourism financial programs. For the first time, Kentucky now has financial programs designed specifically for tourism businesses and the final authority on those programs is concerned only with the business of tourism.

The Commissioner and Deputy Commissioner of the Department of Parks then discussed budget studies to determine the economic feasibility of additional state park facilities at

General Burnside, Nolin Lake, Herrington Lake, and in Lewis County. The Commissioner described the major budgetary projects that they have been involved in during the Interim. Additionally, he said there were seven golf courses funded during the last session, and the completion of those golf courses is scheduled for May 2003.



**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON  
EDUCATION**

**Senator Lindy Casebier, Co-Chair  
Representative Frank Rasche, Co-Chair**

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

LRC STAFF: Sandra Deaton, Ethel Alston, Anne Armstrong, Audrey Carr,  
Evelyn Gibson, Kelley McQuerry, and Lisa Moore

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

### **Subcommittee on Advanced Placement Programs**

**Senator Brett Guthrie, Co-Chair**  
**Representative Frank Rasche, Co-Chair**

Rep. Mike Cherry  
Sen. Alice Forgy Kerr  
Sen. Tim Shaughnessy

Rep. Arnold Simpson  
Sen. Johnny Ray Turner  
Rep. Mark Treesh

**Senator Lindy Casebier, Ex-Officio**

### **Subcommittee on Classified Employees Compensation**

**Senator Jack Westwood, Co-Chair**  
**Representative Hubert Collins, Co-Chair**

Rep. Barbara White Colter  
Rep. Mary Lou Marzian  
Rep. Charles Miller  
Rep. Russ Mobley  
Sen. Gerald Neal

Rep. Tom Riner  
Rep. Kathy Stein  
Rep. Dottie Sims  
Rep. Charles Siler

Senator Lindy Casebier, Ex-Officio  
Representative Frank Rasche, Ex-Officio

### **Subcommittee on Teacher Compensation**

**Senator Lindy Casebier, Co-Chair**  
**Representative Harry Moberly, Co-Chair**

Rep. Jack Coleman  
Rep. Jon Draud  
Rep. Tim Feeley  
Rep. Gippy Graham  
Sen. David Karem  
Rep. Reginald Meeks

Rep. Rick Nelson  
Sen. Ernesto Scorsone  
Sen. Robert Stivers  
Rep. Jim Thompson  
Rep. Charlie Walton

Representative Frank Rasche, Ex-Officio

**Subcommittee on Vocational Education**

**Senator Vernie McGaha, Co-Chair**  
**Representative Buddy Buckingham, Co-Chair**

Rep. Larry Belcher  
Sen. Walter Blevins

Sen. Daniel Seum  
Rep. Gary Tapp

Senator Lindy Casebier, Ex-Officio  
Representative Frank Rasche, Ex-Officio

## **INTERIM JOINT COMMITTEE ON EDUCATION**

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

### **ACTIVITY**

The Interim Joint Committee on Education met five times prior to October 31, 2001. The Committee will meet in November and December to receive reports and adopt recommendations from the subcommittees that have studied issues required by the 2000 and 2001 Regular Sessions of the General Assembly.

The Committee was organized into four subcommittees: Advanced Placement Programs, Classified Employees Compensation, Teacher Compensation, and Vocational Education. Following is a summary of activity of the full Committee and each subcommittee.

Major topics before the Interim Joint Committee on Education were issues related to classified personnel and teacher compensation, access to advanced placement programs, the instruction of economics education, the Commonwealth Accountability Testing System (CATS), including a report on the 2000-2001 test scores, a status report on the reform of postsecondary education, and current efforts to improve reading instruction in the public schools.

In performing its statutory legislative oversight responsibilities, the Committee reviewed 18 administrative regulations under the review process established in KRS Chapter 13A. All of the regulations were approved.

#### **Subcommittee on Advanced Placement Programs**

2001 SCR 2 requested the Interim Joint Committee on Education to form a subcommittee to review the current status of advanced placement programs in schools throughout the Commonwealth. SCR 2 underscored the need for students throughout the state to have access to advanced placement courses in order for those students to have an opportunity to complete the Commonwealth diploma, the state's highest level of secondary education achievement, and to better prepare for postsecondary study. SCR 2 also directed the Advanced Placement Programs Subcommittee to recommend:

- An implementation plan for providing advanced placement study opportunities to qualified students throughout the state;
- A reasonable timeline for implementing advanced placement study opportunities; and
- An outline of the necessary resources needed for full implementation of the plan.

Subcommittee members also agreed to examine dual credit and dual enrollment programs used by students to obtain advanced standing or college credit prior to full-time enrollment at a postsecondary institution.

The Subcommittee met four times over the course of the interim and heard testimony from a variety of educational professionals, counselors, teachers, and students interested in advanced placement programs. The Subcommittee also reviewed data regarding the availability and quality of advanced placement programs throughout the Commonwealth.

The Subcommittee recommended that the Interim Joint Committee on Education consider several changes to improve consistency in advanced placement and dual enrollment programs to expand and increase student access to AP or dual enrollment programs and to maximize the use of existing and future resources in the delivery of AP or dual enrollment programs. Some of the Subcommittee’s specific recommendations included:

- Define the term “advanced placement” and standardizing curriculum for advanced placement courses to ensure all schools offer the same level of difficulty in those courses;
- Direct the Council on Postsecondary Education, in conjunction with postsecondary institutions, to develop administrative guidelines that will standardize the methods postsecondary institutions use for granting credit or advanced standing when students successfully complete advanced placement or dual enrollment programs, courses, or exams;
- Require each school district to offer a core AP curriculum or dual enrollment program using either or both traditional on-site instruction or electronic instruction through the Kentucky Virtual High School or other online alternatives within the next two years;
- Amend KRS 164.7871 to 164.7885, the Kentucky Educational Excellence (KEES) statute, to permit use of KEES scholarship funds earned by individual students for payment of AP course and exam fees or enrollment in the “Kentucky Virtual Academy”; and
- Require school districts to provide the same credit for advanced placement courses taken through the Kentucky Virtual High School and Kentucky Virtual University as they provide to students who take advanced placement courses on site or at local postsecondary educational institutions.

### **Subcommittee on Classified Employees Compensation**

The Subcommittee on Classified Employees Compensation, as directed by 2000 HCR 114, is charged with the responsibility of determining the adequacy of salaries and wages of classified personnel in local school districts and offering recommendations regarding a statewide salary schedule, cost of living adjustments, and the financial impact of these measures on the state and local school districts. During the 2001 interim, the subcommittee has held four meetings and anticipates the last meeting in November 2001.

The Subcommittee reviewed the Kentucky statutes and administrative regulations governing classified employees' status, FY 2000-01 data on job classifications and pay ranges, minimum and average wages, and multiple job assignments compiled from the Classified Staff Database collected by the Kentucky Department of Education, and survey data focusing on the benefits offered in local school districts.

The Subcommittee also heard testimony from the Department of Education, the State Budget Office, the Office of Education Accountability, and from education-related organizations and professional advocates concerning the contributions and the problems experienced by classified employees. Among the topics discussed were the state budget reduction plan; state, local, and federal funding of school districts; local district salary schedules; cost of living increases; the impact of sick leave policies; the cost of health insurance; the absence of professional development and appropriate leave time; the distribution of rewards in successful schools; and membership on school-based decision making councils.

With the status of the Commonwealth's revenue shortfall clearly in view, the Subcommittee discussed criteria for recommending increases, recognizing that classified employees deserve improved wages and salaries. At the fifth meeting scheduled for November 2001, the Subcommittee expects to consider the options and alternatives and adopt recommendations for presentation to the Interim Joint Committee on Education at its December 2001 meeting.

### **Subcommittee on Teacher Compensation**

2000 SCR 88 directed the Interim Joint Committee on Education to study the issues relating to Kentucky's teachers' salaries and benefits and to develop recommendations so that by 2004 Kentucky's teachers' salaries and benefits mirror the national average. The interim Committee assigned the study to the Subcommittee on Teacher Compensation. The Subcommittee met four times before November 1, 2001, and will meet on November 5, 2001, and December 3, 2001.

The Subcommittee reviewed data collected from the Kentucky Department of Education from local school districts, surveyed school districts for data not otherwise available, compared Kentucky's data with that of surrounding states, states who

participate in the Southern Regional Education Board, and other national data. The Subcommittee heard testimony from state agencies, universities, professional education organizations, national experts, private and business organizations, and other interested parties.

The Subcommittee discussed a variety of issues, options, and possible recommendations, but it will not make final proposals to the full interim Committee until the December meeting. The Subcommittee members have reached a consensus that the goal in the resolution is not viable and that a long-term strategy should be developed to substantially increase base salaries as well as to provide options for teachers to increase their salaries.

### **Subcommittee on Vocational Education**

The Subcommittee on Vocational Education was created as a result of 2000 House Bill 185 that requires the Interim Joint Committee on Education to conduct a study relating to secondary career and technical education and to file a report by August 1, 2003. The Subcommittee met four times and heard a variety of reports on the standards for secondary programs, equipment, and facilities. At its November meeting the Subcommittee will receive a status report from the Education Professional Standards Board on its work group studying the current certification renewal and continuing education requirements for those teachers in technical fields who enter teaching based on work experience and a preliminary review of the how well students perform who have three or more years of high school career and technical education by using the Commonwealth Accountability and Testing System.

The Subcommittee will continue its work next interim to determine and analyze the implementation of the weighted funding formula that was established by HB 185 to distribute the General Fund supplements to the 25 districts that operate a locally operated center or department.

**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON  
HEALTH AND WELFARE**

**Senator Julie Rose, Co-Chair  
Representative Tom Burch, Co-Chair  
Senator Tom Buford, VC  
Representative Paul Bather, VC  
Representative Bob DeWeese, VC  
Representative Steve Nunn, VC  
Representative Kathy Stein, VC**

Sen. Charlie Borders  
Sen. David Karem  
Sen. Daniel Mongiardo  
Sen. Richard Roeding  
Sen. Katie Stine  
Rep. Kevin Bratcher  
Rep. Robert Damron  
Rep. Bob Heleringer  
Rep. Mary Lou Marzian  
Rep. Jon David Reinhardt

Sen. Paul Herron  
Sen. Ed Miller  
Sen. Joey Pendleton  
Sen. Dan Seum  
Rep. John Arnold  
Rep. Brian Crall  
Rep. Jim Gooch  
Rep. Joni Jenkins  
Rep. Ruth Ann Palumbo  
Rep. Susan Westrom

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE**

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

### **COMMITTEE ACTIVITY**

During the 2001 Interim, the Interim Joint Committee on Health and Welfare held two meetings from *sine die* adjournment of the 2001 Regular Session through October 31, 2001. A third meeting is scheduled for November 21, 2001. No subcommittees were created.

#### **Referred Block Grant Applications**

Pursuant to KRS 45.353, the Committee held legislative hearings on two block grant applications: FFY 2002 Community Mental Health Services Block Grant, and FFY 2002 Substance Abuse Prevention and Treatment Block Grant.

#### **Referred Executive Orders**

Pursuant to KRS 12.028, the Committee held a hearing on one reorganization order: 2001-1173, relating to the reorganization of the Kentucky Developmental Disabilities Council.

#### **Referred Administrative Regulations**

In performing its statutory legislative oversight responsibilities, the Committee reviewed 20 administrative regulations upon referral from the Administrative Regulation Review Subcommittee under the review process established in KRS Chapter 13A. All of the administrative regulations were approved.

## **Major Issues Considered**

### **Domestic Violence**

The Executive Director of the Governor's Office of Child Abuse and Domestic Violence Services explained that on August 24, 2001, the Governor issued an executive order on workplace policy on domestic violence and sexual assault for the executive branch. This policy has three key components: 1) Zero tolerance for domestic violence and sexual assault; 2) Creating safety for victims of domestic violence and sexual assault; and 3) Safe and productive workplaces for all employees. It is the Governor's wish that the policy will be copied by both the legislative and judicial branches.

Attention was also given to the Statewide Victim Advocate Communication Network (V-NET), which links victim advocates in Rape Crisis Centers, Spouse Abuse Centers, Children's Advocacy Centers, prosecutors' offices, and other locations to state agencies and each other. Kentucky is the only state to have this type of computer system for victim advocates. V-NET eases communication between victim advocates and gives access to information.

Project Passport is an eight-state strategy for implementing the Full Faith and Credit Clause of the U.S. Constitution to allow for enforcement of domestic violence protective orders from other states. The goal of Project Passport is to create a regional model of enforcement of domestic violence protective orders across state borders through the development and adoption of a recognizable protective order form to be used throughout the region and ultimately expanded nationwide.

The Committee learned that the Sexual Assault Nurse Examiner Program has continued to serve victims of sexual abuse by providing a forensic rape exam in rape crisis centers. Eighty-three nurses across the state have specialized training to perform these exams, and approximately 8,000 victims receive services each year.

In response to a recommendation of the Governor's Council on Domestic Violence and Governor's Task Force, a multidisciplinary team assists with overseeing the prosecution of rape crisis centers. Thirty-three Local Domestic Violence Coordinating Councils have been created to determine the best administration of justice for domestic violence cases in their respective communities. House Bill 427, enacted during the 2000 Regular Session, created Domestic Fatality Review Teams, which established at the state level a model policy or protocol for conducting reviews whenever there is a death related to domestic violence. There are only two Domestic Fatality Review Teams in Kentucky.

In 1996, legislation was enacted for an offender certification program in the area of forensic mental health to provide certification for mental health professionals who perform court-ordered domestic violence offender treatment. There are 90 mental health professionals throughout Kentucky who are certified to treat domestic violence offenders.

## Early Childhood Development

The Executive Director of the Governor's Office of Early Childhood Development provided an update on the Early Childhood Development Act (HB 706), passed by the 2000 General Assembly. The Committee learned that the following initiatives had begun and will be continued in the next biennium:

- The Folic Acid Campaign, which helps women receive folic acid to help prevent spina bifida.
- The Substance Abuse Treatment Program for Pregnant and Post-Partum Women, which assists Medicaid-eligible women with current or prior substance abuse problems to bear healthy babies and to remain free of substance abuse behaviors in the future.
- The Universal Newborn Hearing Screening Initiative, which assists hospitals to screen all newborns prior to hospital discharge.
- The Immunization Program for Underinsured Children Initiative, which has helped immunize 10,000 children. Kentucky remains among the nation's leaders with its high immunization success rate.
- The Voluntary Home Visiting Program, which provides voluntary home visitation for first time parents who are at-risk.
- The Quality Rating System for Childcare, or the STARS for KIDS NOW program, which raises the level of quality in childcare by offering a system of incentives and rewards based on identified characteristics associated with positive outcomes for children and families and by offering technical assistance to achieve quality indicators.
- The Scholarship Fund for Childcare Providers, administered through the Kentucky Higher Education Assistance Authority, which is available to anyone who works in childcare at least 20 hours per week and to trainers also seeking a specialty trainer's credential.
- The Increased Licensing Personnel Initiative, which brings expertise to upgrade childcare quality by having smaller caseloads consisting only of childcare facilities. There is one licensing surveyor for 50 centers.
- The Healthy Start in Childcare Initiative, which provides personnel to train and educate childcare providers and parents in health, safety, nutrition, and the benefits of early intervention.
- The Community Early Childhood Council Funding Initiative, which forms community councils to improve the quality and availability of childcare in low resource/high need areas.
- The Business Council, which involves the corporate community and local governments in supporting issues of importance to working families in Kentucky.
- The Professional Development Council, which works with existing entities to create a seamless system of education and training for early childhood providers, beginning with an entry level credential and proceeding through a Master's degree.
- The Child Safety in Childcare Initiative, which allows the Cabinet for Families and Children, through the Office of Inspector General, to assess penalties on facilities when an inspector finds a situation that poses an immediate threat to the health, safety, or welfare of children.

## **Women's Health**

The Executive Director of the Office of Women's Physical and Mental Health testified that her office has carried out the responsibilities assigned by House Bill 864, enacted by the 1998 General Assembly. The Women's Health Data Report will be completed in the fall of 2001 and distributed in January 2002, and will cover aging, breast/cervical cancers, chronic conditions, mental health, and rural health. As of 1999, the leading causes of death for Kentucky females are chronic lower respiratory disease, diabetes mellitus, heart disease, malignant neoplasms, and cerebrovascular diseases. The report will also include information on the increase of folic acid use, osteoporosis awareness, calcium supplements, decrease in teen birth rate, decrease in teen pregnancy rate, drop in reported incidence of gonorrhea, and more overall health awareness.

The Women's Health Resource Center provides information on prevention and wellness and comprehensive health data. This information can be accessed through the website of the Office of Women's Physical and Mental Health.

## **Kentucky Physician's Care Program**

The Director of the Kentucky Physician's Care Program (KPCP) stated that the program provides free care to people with incomes below the federal poverty level and who do not have other means of paying for health care. The program is accessible through a toll-free telephone number (800-633-8100), which is answered by staff at the Cabinet for Health Services. Appropriate referrals are made to the eligible person's local Department for Community Based Services (DCBS) office for an application. This office facilitates an office visit with a physician closest to the individual. There are 3,000 physicians statewide who participate in KPCP. If there is a charge after the first visit, the patient and physician negotiate a fee. All 127 acute care hospitals, along with 525 pharmacies and seven pharmaceutical companies, participate in the program, which handles approximately 300 referrals each month.

## **Welfare Reform**

The Secretary of the Cabinet for Families and Children introduced the Manpower Demonstration Research Corporation, which has evaluated Kentucky's welfare reform program that was initially authorized in 1996 by the federal government and subject to review by the 2002 General Assembly.

Kentucky responded to the federal direction to change welfare policy by requiring people to seek training or education while receiving public assistance. The state also provides earning supplements and financial work incentives and has implemented a 60-month time limit. Individuals began reaching the 60 month termination period for their benefits in October 2001.

The Manpower Demonstration Research Corporation has determined that 1) many welfare-to-work programs help increase future earnings; 2) only policies that supplement earnings help children; 3) there is no evidence of benefit or harm due to time limits; 4) voluntary education is more effective than mandatory education; 5) there is a challenge in retention and advancement of people in the program; and 6) there is a challenge in identifying and reducing barriers to work. It was recommended that community colleges be linked with employers to help educate individuals with the skills needed for a specific job.

### **Medicaid Pharmacy Cost Study Methodology Report**

The Secretary of the Cabinet for Health Services and the Director of the Governor's Medicaid Steering Committee provided an overview of the pharmacy cost study methodology that will be used to establish pharmacy dispensing fees in the Medicaid program. The methodology will be based upon a calculation of the average dispensing cost for retail pharmacies and for pharmacies that dispense intravenous prescriptions. The total number of prescriptions dispensed will be taken into the total dispensing cost to arrive at an average. The Cabinet will review the calculation of the average dispensing cost for retail pharmacies, assume legislative intent, and the average dispensing cost will be determined by dividing the total dispensing cost, weighted by Medicaid volume, by the total number of prescriptions dispensed.

### **Resolution on Mental Health Budget Cuts**

The Committee adopted the following resolution: A RESOLUTION from the Interim Joint Committee on Health and Welfare urging the Governor for this fiscal year to reduce unnecessary and non-essential spending and to retain current spending levels for mental health and mental retardation programs.

### **Mental Health**

The Commissioner of the Department for Mental Health/Mental Retardation Services testified that the department operates three psychiatric hospitals, two nursing homes, six intermediate care facilities for mental retardation (ICF/MRs), and one substance abuse residential treatment program. The department contracts for the operation of two psychiatric hospitals, one ICF/MR, three personal care homes, and for all community services. The vast majority of community services are provided by the 14 regional mental health/mental retardation boards across the state.

The department budget consists of \$179,705,400 from the General Fund, \$45,723,600 from the federal government, and \$186,177,800 from Medicaid funds in the form of per diem payments to facilities, or disproportionate share hospital funds, or other Medicaid resources or funds, for a total of \$411,606,800. These figures remain in the current budget after the recent budget reduction of approximately \$4.2 million that was ordered by the Governor. The Commissioner explained that the cuts were in central office

administration (\$475,000), residential programs (\$1.8 million), and community services (\$1.9 million). The contracts for the Community Mental Health/Mental Retardation Boards were left at the same amount as 2001.

The department has been involved in four initiatives: 1) Commission on Services Murray Wood and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses (HB 843 from the 2000 General Assembly); 2) Commission on Services and Supports for People with Mental Retardation and Developmental Disabilities (HB 144 from the 2000 General Assembly); 3) Kentucky Agency for Substance Abuse Policy (KY-ASAP); and 4) the United States Supreme Court's *Olmstead* decision, in which the justices held that a state is in violation of a person's civil rights and the Americans with Disabilities Act if it allows a person to remain in a facility if the treating professional believes the person can be served in the community and if the person is not opposed to leaving a facility. To comply with this decision, Kentucky must have an effectively-operating statewide plan for persons with disabilities and must assure that any waiting list for services moves at a reasonable pace. Many people throughout the state have participated with the Cabinet's efforts to develop the statewide plan.

In response to the Commissioner's testimony, the Committee heard from consumer advocates, who testified that the cuts could result in more people 1) being hospitalized; 2) being sent to jail; 3) deteriorating; 4) becoming homeless; and 5) having a diminished quality of life.

### **Substance Abuse**

The Committee received the report of the Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses, which was authorized by HB 843 in the 2000 General Assembly. Following receipt of testimony from consumers and mental health professionals from around the state, the Commission compiled a report that listed prioritized short and long-term recommendations along with budget projections.

The Executive Director of the Kentucky Agency for Substance Abuse Policy (KY-ASAP) testified about the formation of community-based councils that will help shape substance abuse prevention policy and identify local needs and resources.

### **Bioterrorism Preparedness**

The Commissioner of the Department for Public Health testified about the state's ability to identify and respond to biological and chemical events that might be part of a terrorist initiative. His department has worked with the Division of Emergency Management Services to identify the state's capabilities and to create a model response protocol. This information has been disseminated to health departments around the state.

## **Telehealth**

The Telehealth Board reported about the development of the Kentucky Telehealth Network, which was authorized by House Bill 127 during the 2000 General Assembly. This network will enable health care professionals, including physicians, hospitals, and health departments from around the state, to provide direct care and consultation while avoiding the associated cost of patient travel. Specialist information and diagnosis may now be shared in a “real time” format with treating physicians, expediting patient care, and minimizing health care cost.

The Interim Joint Committee on Health and Welfare will hold a final meeting on November 21, 2001, to hear testimony concerning a pharmaceutical assistance program for the elderly, the report of the Child Support Guidelines Commission, the Medicaid Managed Care Oversight Advisory Committee’s recommendations, the graduated driver’s license for teenagers, aging issues, and any bills drafted or prefiled for the 2002 Regular Session.



**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON JUDICIARY**

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

Sen. Dick Adams  
Rep. Paul Bather  
Rep. Kevin Bratcher  
Sen. Lindy Casebier  
Rep. Perry Clark  
Rep. Jesse Crenshaw  
Rep. Joseph Fischer  
Rep. Charles Geveden  
Rep. Bob Heleringer  
Rep. Jeffrey Hoover  
Sen. Ray Jones  
Sen. Marshall Long  
Sen. Gerald Neal

Sen. R.J. Palmer  
Rep. Frank Rasche  
Rep. Arnold Simpson  
Rep. John Will Stacy  
Rep. Kathy Stein  
Sen. Katie Stine  
Rep. Gary Tapp  
Sen. Elizabeth Tori  
Rep. John Vincent  
Sen. Jack Westwood  
Rep. Rob Wilkey  
Sen. David Williams  
Rep. Brent Yonts

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **INTERIM JOINT COMMITTEE ON JUDICIARY**

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

### **COMMITTEE ACTIVITY**

During the 2001 interim, the Interim Joint Committee on Judiciary held three meetings.

At the September 2001 meeting, the agenda included topics related to DNA evidence. The Committee first considered two bill drafts relating to expanding the class of persons to which DNA evidence testing applies beyond sexual offenders, to include violent offenders and burglars. Discussion involved the present ability of the Kentucky State Police Laboratory to handle such an increase and the costs involved. The second bill related to preservation of DNA evidence from the time the evidence was collected until the time the defendant leaves prison. The concern expressed was that DNA evidence is frequently used later to exculpate a person who has been convicted of an offense and that if the evidence is destroyed that avenue of appeal may be foreclosed. Concerns were expressed relating to the practicalities and the cost of retaining large items containing DNA evidence for lengthy periods of time. Members having various DNA related bills were encouraged to come with a single compromise proposal which could be supported by the members, the Commonwealth's Attorneys, and the Department for Public Advocacy.

The second matter considered involved legal challenges to driving-under-the-influence legislation on the matter of the warnings given to the defendant about the consequences of failure to submit to an alcohol analysis. The current warning specifies that the defendant will receive twice the jail time, but for a first offense jail time is not mandatory and defense attorneys and various courts have determined that the warning is incorrect and coercive. Another concern was that the statute requires that the test be given while the defendant was operating and in control of the vehicle, which is not how other statutes demand that the testing be conducted.

The third matter was a report by the Commissioner of State Police on the preliminary recommendations of the OxyContin Task Force, which included proposals to make improvements in the KASPER drug reporting and surveillance computer system, requiring the thumbprint of persons receiving controlled substances when the recipient is not personally known by the pharmacists, and stiffening penalties for physicians who do not use secure prescription pads for controlled substances prescriptions.

The October meeting of the Committee was devoted to the sole topic of the death penalty. Advocates for abolition of the death penalty made two primary proposals relating to the death penalty. The first proposal would apply a retroactive ban on the death penalty for persons who are mentally retarded. Currently, Kentucky bans execution of persons who are mentally retarded, but when the legislation was originally passed it was not made retroactive due to the mistaken belief that there were no mentally retarded inmates on death row at the time of the passage of the legislation. Subsequently it was learned that there is at least one mentally retarded inmate on death row, and that is the reason the legislation is sought. The second proposal involved the elimination of the death penalty for persons who commit a death-penalty-eligible crime while under the age of 18. The current statute allows execution of persons who commit crimes from the age of 16 and up. There is currently one person on death row who committed a death penalty eligible murder while under 18. Commonwealth's Attorneys appeared in defense of the death penalty in general and challenged some of the statistics espoused by the anti-death penalty proponents. Commonwealth's Attorneys indicated that in Kentucky most death penalty reversals are on procedural grounds and indicate how carefully the courts view such cases rather than the fact that the defendants did not commit the crime charged. The Commonwealth's Attorneys indicated that they had not yet formally reached a consensus on whether to support or oppose the proposals brought before the Committee.

The November meeting of the Committee is scheduled to discuss child support and child support guidelines development, child custody, and a proposal for a moratorium on the death penalty while a study is made as to its fairness and other matters relating to whether criminal defendants are adequately defended in death penalty cases.

No bills have been officially referred to the Committee, so the Committee has taken no official action on proposed legislation.

**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON  
LABOR AND INDUSTRY**

**Senator Katie Stine, Co-Chair  
Representative J.R. Gray, Co-Chair**

Sen. Dick Adams  
Rep. John Arnold  
Sen. Walter Blevins  
Sen. David Boswell  
Rep. Denver Butler  
Sen. Julie Denton  
Sen. Ernie Harris  
Rep. Charlie Hoffman  
Rep. Dennis Horlander  
Sen. Bob Jackson  
Rep. Joni Jenkins  
Sen. Alice Kerr

Rep. Tom Kerr  
Rep. Stan Lee  
Sen. Vernie McGaha  
Rep. Russ Mobley  
Rep. Rick Nelson  
Rep. Steve Nunn  
Sen. Joey Pendleton  
Sen. Dick Roeding  
Rep. Jim Stewart  
Rep. Johnnie Turner  
Rep. Brent Yonts

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY**

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

### **COMMITTEE ACTIVITY**

The Interim Joint Committee on Labor and Industry held two meetings during the 2001 Interim before November 1, 2001. The major topic discussed by the Committee was black lung, medically defined as coal workers' pneumoconiosis.

At the first meeting, the Committee heard testimony from nationally recognized medical experts on the disabling aspects and diagnosis of black lung. The experts stated that the chest x-ray is the best way to detect the presence of the disease, but that x-ray presence of the disease does not necessarily correlate to impairment or loss of lung function caused by the disease. Pulmonary function studies are necessary to assess impairment or loss of lung function resulting from exposure to coal dust.

Although computed tomography imaging (CT scans) was discussed as possibly a more accurate diagnostic tool to detect presence of black lung disease, the medical experts stated that a CT scan was not financially feasible to use as a screening tool, but would be better utilized as a means to resolve a disputed interpretation of a chest x-ray.

The Committee also heard testimony that the federal coal dust standards had lowered the incidence of black lung; that there was a significantly greater likelihood that smoking, rather than coal dust exposure, resulted in loss of lung function in coal miners; and that, in a majority of cases, progression of black lung disease ceases when exposure ceases.

At the second meeting, the Committee continued its discussion of black lung. The focus of the testimony was the role of the University of Louisville and the University of Kentucky in the evaluation of black lung claimants. HB 1, enacted in 1996, required an independent medical evaluation conducted by one of the universities on each applicant for black lung benefits. An overview of the procedures followed by physicians in conducting black lung evaluations was provided by the chief administrative law judge in the Department of Workers' Claims.

The Committee heard testimony from the university physicians about the roles of the "B" readers and the pulmonary specialists in detecting the presence of black lung and assessing pulmonary impairment resulting from exposure to coal dust. The physicians

explained the procedures for conducting various medical evaluations, and answered questions about diagnosing black lung.

The Chair of the Kentucky Worker's Compensation Board presented a comparison of Kentucky's black lung provisions with those of eight other coal producing states and the federal black lung program. In addition, the Commissioner of the Bureau of Employment Programs in West Virginia provided an overview of black lung compensation in West Virginia.

The third meeting of the Committee is scheduled for November. For that meeting, representatives of the coal industry and the coal miners have been invited to present recommendations and legislative proposals for consideration by the 2002 General Assembly.

For more detailed information on issues discussed by the Committee, minutes of the meetings are available in the LRC Library or by contacting Committee staff.

**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON  
LICENSING AND OCCUPATIONS**

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

Sen. Virgil Moore, VC  
Rep. Reginald Meeks, VC  
Rep. Jon David Reinhardt, VC  
Sen. David Boswell  
Sen. Bob Jackson  
Sen. Richard Roeding  
Sen. Ed Worley  
Rep. Larry Clark  
Rep. Jon Draud  
Rep. Joni Jenkins  
Rep. Ruth Ann Palumbo

Rep. Carolyn Belcher, VC  
Rep. Charles Miller, VC  
Sen. Charlie Borders  
Sen. Tom Buford  
Sen. Marshall Long  
Sen. Jack Westwood  
Rep. Tom Burch  
Rep. Ron Crimm  
Rep. Dennis Horlander  
Rep. Paul Marcotte  
Rep. Jim Stewart

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS**

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

### **COMMITTEE ACTIVITY**

During the 2001 Interim, the Interim Joint Committee on Licensing and Occupations held two meetings prior to November 1, 2001.

In performing its statutory legislative oversight responsibilities, the Committee reviewed four administrative regulations under the review process established in KRS 13A. All of the regulations were approved.

At its first meeting, the Committee heard testimony from representatives of various groups in the racing industry on the challenges it faces. Those problems identified as likely to impact the state's preeminence in racing include loss of funds by breeders from the mare reproductive loss syndrome; a decline in live racing attendance at the tracks; the inability of Kentucky's purses to remain competitive with other states' purses that are supplemented by moneys from video lottery terminals and other forms of gaming; the onset of competition from riverboat and casino gambling on Kentucky's borders; an existing tax structure where the total amount wagered rather than profits are taxed; and the poor physical conditions of some tracks. In addition, the testimony stressed the ripple effect the decline of the industry will have on Kentucky's economy.

At its second meeting, the Committee heard an update on the Attorney General's Task Force on Cemetery Preservation and testimony from representatives of the Attorney General's Office, the Transportation Cabinet, and the Historical Society on their roles in regulating or addressing the needs of cemeteries. Those agencies along with the Department of Parks and the Department of Veterans' affairs are expressly charged by statute to oversee certain cemeteries. Specifically, the Attorney General's Office ensures that for-profit cemeteries set aside a percentage of each grave's sale price for the perpetual care of those cemeteries; the Transportation Cabinet has responsibilities for relocating cemeteries on properties used for road projects; the Historical Society maintains the graves of Kentucky Governors and their spouses and the three United States Vice

Presidents; the Department of Parks is responsible for Civil War cemeteries; and the Department of Veteran's Affairs oversees state veteran cemeteries.

At that same meeting, a representative from the Department of Charitable Gaming briefed the Committee on the number of charitable organizations not meeting the "40% rule," attributing the decline in the number of violators to recent legislative changes. The "40% rule," which requires charitable organizations to devote that much of their adjusted gross receipts to charitable purposes, has been amended over the years to exclude from the calculation of percentage retained, fees paid to the Department, and sales and excise taxes imposed on supplies and equipment; to make calculations on an organization's annual rather than quarterly receipts; and to impose graduated penalties. Moreover, the Department's representative testified on its need for a decision-making board with the authority and flexibility to respond quickly to industry changes and market conditions. The example used was that the cap on charitable gaming prizes in West Virginia is higher than that in Kentucky.

On November 9, 2001, the Committee will hold a final meeting to discuss the Department of Alcoholic Beverage Control's legislative package and statewide registration of building contractors.

**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON  
LOCAL GOVERNMENT**

**Senator Albert Robinson, Co-Chair  
Representative Steve Riggs, Co-Chair**

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

Rep. Jim Wayne

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
GENERAL ASSEMBLY**



## **INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT**

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

### **ACTIVITY**

The Interim Joint Committee on Local Government has met three times during the 2001 Interim. The Committee has reviewed executive branch activities by its review of proposed administrative regulations and presentations made by various state agency representatives. The Committee also met with various local government interest groups in order to determine their legislative needs for the upcoming legislative session, reviewed the activities and practices of special districts, and began a review of the statutory duties and responsibilities of the state's locally elected constitutional officers.

At its first meeting, in August, the Committee invited the director of the Division of Emergency Management (DEM) and the director of Scott County's emergency management unit who also serves as executive vice-president of the Kentucky Emergency Management Association (KEMA) to discuss disaster and emergency preparedness plans in Kentucky.

The Division Manager for Emergency Management gave the Committee an update on the implementation of requirements found in 98 HB 453 which requires local governments to create, support, and maintain a local emergency management agency, which serves the public safety interest of the local government within the territorial boundaries of the city or county where the agency is created. Each local emergency

management agency is required to develop, implement, and maintain a local emergency management program, including a local emergency operations plan. Their goal is to coordinate people and resources, in ways that protect lives, the environment, and property. This is an all-hazards program to address man-caused events, national security issues, such as terrorism, or natural events, such as flooding. The DEM manager explained that all 120 counties are in compliance and have operating plans in existence that can be executed in response to storms and floods. He noted that counties are currently in a four-year upgrade cycle for those plans, and over half of the counties are ahead of schedule in updating the plans. The remaining counties are on target with their updates. He also noted that 109 counties have appointed a coordinator for search and rescue emergencies.

He also told the Committee that due to the continuous series of violent storms and flash flooding in July and August in eastern Kentucky, the Governor has asked the President to declare the area a major disaster for Kentucky. In August, Floyd, Knott, Letcher, Perry, and Pike counties were estimated to have almost \$14 million in public damages and over \$1,500,000 in damages to homes.

The director of the Scott County emergency management unit explained to the Committee that the demands on local emergency management agencies continues to increase but the funds are decreasing. He noted that there is no state disaster funding available for the citizens of Kentucky. Kentucky has to rely on the Federal Emergency Management Association (FEMA). The Committee was also told that there are approximately 15 states, including Florida, that have state emergency funding.

Another topic discussed at the August meeting was special purpose local governments, or special districts. They have always been an area of discussion for this Committee in that there are so many of them with varying powers which operate in varying ways. For general purposes, special districts can be described as subdivisions of state or local government that are created to perform prescribed services within a limited service area. Examples of special districts include water districts, fire districts, library services, and sanitation districts.

A representative from the Department for Local Government gave the Committee an overview of the number and types of special districts which are currently in existence throughout the state. At this meeting, the Committee was also particularly interested in the ability of special districts to levy and increase fees without the permission or oversight of local governments. It had come to the attention of the Committee that some municipal utilities and water districts have been charging a monthly “stand-by fee” billed to customers for the provision of a charged and pressurized water line for fire suppression systems such as sprinkler systems. Utilities do not seem to be basing the stand-by fee on water used and the fees seem to vary from provider to provider. It has been reported that the fees can be as low as \$20 per month to several hundred dollars per month. Members of the Committee expressed concern that public safety will be at risk if property owners

disconnect sprinkler systems to avoid paying for what they say is an exorbitant stand-by fee in addition to their normal water fees.

Also at this meeting, the Committee began a review of the elected constitutional county offices. The review was undertaken in order to obtain information from officials in these offices regarding their duties and to ascertain if statutory changes are needed to improve the effectiveness and efficiency of the offices. Due to the short length of time which the Committee had to meet this interim, it was only able to review the offices of sheriff, magistrate and commissioner, and county surveyor. The Committee plans to continue its review of the remaining offices during the 2002 interim.

The first office reviewed was that of the county surveyor. The Committee was told by representatives of surveyors from across the state that there may be a need to require all elected surveyors to be licensed land surveyors. While there is already training involved with maintaining such a license, it has been mentioned by those in the field that the county surveyor could be very helpful in the implementation of a statewide geographic information system. If this occurs, additional training may also be warranted. In addition, it was suggested that the statutes be amended to remove the requirement for surveyor candidates to receive circuit judge approval of competency prior to taking office. If these candidates are licensed surveyors this step will no longer be necessary.

At its second meeting, the Committee reviewed and gave approval to an administrative regulation proposed by the Department of Housing, Buildings, and Construction relating to the annual inspection of elevators. One provision of the regulation which was discussed at length by the members was a proposed increase in the annual fee charged for elevator inspections.

Continuing their review of county constitutional offices, representatives of sheriff's offices from across the state were invited to appear before the Committee in September. Members were told by representatives of the Kentucky Sheriff's Association that one of the biggest concerns for sheriffs involves KRS 64.140, relating to the monthly (up to \$30,000) funding advancement to sheriffs. Because many sheriffs claim they do not currently receive adequate money from the state to run their offices, it was recommended that the statute be amended to allow an amount up to \$60,000 per month instead of \$30,000. Those in attendance said this would help alleviate the all too common situation whereby sheriffs have to personally borrow money in order to run the office throughout the year.

Sheriffs also apprised the Committee of a situation related to the passage of 00 SB 326, which increased from \$5 to \$12, the amount of criminal case court costs to be paid to sheriffs for increased security needs incurred in courthouses around the Commonwealth. Although 00 SB 326 was signed into law, the biennial budget bill, 00 HB 502, also contained a \$4 million appropriation to the Administrative Office of the Courts (AOC) for courthouse security. The conference committee on 00 HB 502 took the sheriffs' \$7 increase and gave control of it to the Finance and Administration Cabinet for the sole

purpose of increased courthouse security. The Committee was told that as a result of this action, the sheriffs did not see an increase in the current hourly rates paid for court service costs despite the fact the sheriff has the statutory duty to provide the security for every court in the Commonwealth.

Sheriffs also expressed support for the following statutory changes:

- 1) Creation of a standardized fee schedule for the various types of papers that are processed by that office each day;
- 2) Statutory authorization for the use of employment contracts for new deputy sheriffs which are used by some states and in some Kentucky counties that allow counties to require minimum employment periods for new hires to enable the county to recoup some of the training and equipment costs which have been invested in the new employees. It was reported that some states require new deputies to repay the costs of their training by spending a prescribed amount of time in the job position or reimbursing the county the actual amount of the training; and
- 3) Amendment of current statutes to allow deputy sheriffs to carry concealed weapons.

The Committee then reviewed the office of county magistrate and commissioner. The executive director of the Kentucky Magistrates and Commissioners Association (KMCA) said the primary function of magistrates and commissioners is to function as the “legislators” of the fiscal court. The executive director further explained that the fiscal court enacts the county budget, 50% of which provides for the incarceration of prisoners. It was further pointed out that “home rule” grants other powers to fiscal courts, which include carrying out governmental functions necessary for the operation of the county. But he noted magistrates and commissioners do not have any administrative duties with those being given to the county judge/executive. The fiscal court does have discretionary powers, which include regulating and controlling the fiscal affairs of the county.

At its third meeting in October, the Committee reviewed 02 RS BR 805, An Act relating to cemetery maintenance. Because the proposal had not yet been referred to the Committee by LRC, the Committee took no official action on the proposal.

The Committee then continued its discussion from September relating to the funding of sheriff’s deputies from court security funds regulated by the Finance and Administration Cabinet. Representatives from the Cabinet said that court security costs were continually rising and that all available funds were being used. They noted these increases included an additional number of employees and additional equipment purchases but not an increase in the hourly wage paid to the county for the services of the deputy sheriffs. They also said the increased funds coming from the filing of court cases were being put into the state’s General Fund, which is used for other costs than just salaries. Members expressed concerns regarding the administration of these funds in the reported manner.

The co-chairmen of the Special LRC Advisory Committee on City and County Relations came before the Committee at this meeting to give an oral report as to the work completed by their group. They reported that the advisory committee had just completed its work and had approved a proposal which would create an optional process relating to the creation of tax based coordination agreements for local governments.

Also at this meeting, representatives of the Department for Local Government, the Kentucky Association of Counties, the Kentucky League of Cities, the Kentucky County Judge/Executive Association, and the Kentucky Council of Area Development Districts came before the Committee to discuss their legislative proposals for the 2002 General Assembly.

Finally, the county judges/executive from Taylor and Owen Counties appeared before the Committee to request support for legislation which would allow local governments that do not have planning and zoning in their counties to have some oversight of the siting of telecommunications towers. The Committee took no action on their request.



**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON SENIORS,  
MILITARY AFFAIRS, AND PUBLIC SAFETY**

**MEMBERSHIP**

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

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

LRC STAFF: Clint Newman, Alisha Miller, Mike Bennett, and Wanda Gay

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **INTERIM JOINT COMMITTEE ON SENIORS, MILITARY AFFAIRS, AND PUBLIC SAFETY**

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

### **COMMITTEE ACTIVITY**

During the 2000-01 Interim, the Interim Joint Committee on Seniors, Military Affairs, and Public Safety held three meetings. At the first meeting, the Committee, pursuant to the review process established in KRS Chapter 13A, reviewed 106 KAR 4:010 which implements the new Kentucky State Military Funeral Honors program created by 2000 HB 278. The regulation defines terms; specifies for what purposes the Burial Honor Guard Trust Fund shall be expended; provides how funds for the trust fund may be obtained; provides for the payment of incidental costs; specifies who is entitled to military funeral honors; sets standards for the conduct of ceremonies; sets forth the responsibilities of the Department of Military Affairs and the Department of Veterans' Affairs; provides for Military Funeral Honors providers; and sets forth procedures for requesting military burial honors for deceased veterans. The Adjutant General and the Commissioner of the Department for Veterans' Affairs spoke on how military burial honors are provided. The regulation was amended and approved.

The issue of flying the POW/MIA flag daily at the Kentucky Vietnam Veterans' Memorial was discussed. A Resolution to require the flying of the flag was introduced during the 2000 Session. The Kentucky Attorney General opined that the General Assembly could not mandate that the flag be flown, since the memorial was not owned by the Commonwealth. The bill passed the Senate but was not voted on in the House Seniors, Military Affairs, and Public Safety Committee. That same bill has been prefiled for the 2002 Session. Resolutions adopted by the Joint Executive Council for Veterans' Organizations (JECVO) and five other veterans' organizations were presented in support of legislation urging that the POW/MIA flag be flown at the memorial. The author of *Stolen Valor* spoke in opposition to flying the flag daily at the memorial, as did an original board member of the Kentucky Vietnam Veterans' Memorial Foundation. The sponsor of the 2000 resolution spoke in favor of flying the flag daily at the memorial.

The second meeting focused on terrorism, in light of the September 11, 2001, terrorist attack on America. Mr. Tom Preston, Principal of Preston Global, a Kentucky corporation which concentrates on corporate and institutional planning to prevent and to respond to acts of terrorism, presented an overview on terrorism. Mr. Preston said that

law enforcement, especially at the local and state levels, must have an improved understanding of terrorism, motivations, techniques, and typologies. The way law enforcement patrols, provides surveillance, conducts traffic stops, and carries out other essential duties will be changed because of future terrorist activities. Kentucky does not want to become one of the easier states to attack. We must not succumb to false confidence. There must be no confusion about overall responsibilities and authority. Cross training is mandatory.

Kentucky's Adjutant General addressed the Committee on Kentucky's readiness to respond to acts of terrorism. The Adjutant General said that we have a lot to do, but Kentucky has been working on emergency response planning and preparedness for a long time. Our emergency management plans on how to respond to an earthquake (the New Madrid Seismic Disaster Plan), and the Chemical Stockpile Emergency Preparedness Plan include many elements that will be useful in responding to acts of terrorism. He also explained how the National Guard is assisting with Kentucky airports on passenger screening procedures.

A representative of the Vietnam Veterans of America spoke in support of flying the POW/MIA flag daily at the Kentucky Vietnam Veterans' Memorial, as did a citizen whose brother-in-law is missing in action, and the Chairman of the Joint Executive Council of Veterans' Organizations.

A Co-Chair of the Task Force on Senior Citizens and the Workforce gave an update on the task force. Some of the topics that will be addressed by the task force are the true story behind senior productivity, optimizing generational diversity, understanding how the age wave will transform the workplace, the economics of retirement, the financial complexities of retirement living, linking senior opportunities to livability studies in Kentucky communities, and policy issues affecting the employee and employer.

The legislative proposals of the Kentucky Department of Veterans' Affairs were presented by the House Co-Chair of the interim joint Committee. Proposals include (1) earmarking a small percentage of gross receipts of licensed veterans gaming operations to the Veterans' Program Trust Fund; (2) creating a special lottery scratch off game that commemorates veterans, with a percentage of the proceeds earmarked for the Veterans' Program Trust Fund; (3) waiving of college tuition for the spouse or child of a non-resident deceased veteran (the spouse must be a Kentucky resident); and (4) expanding tuition waivers for dependents of veterans and authorizing promulgation of administrative regulations.

The Chairman of the Joint Executive Council of Veterans' Organizations presented its legislative agenda for the 2002 Regular Session. The agenda includes (1) increasing funding for veterans service organizations contracts with the Kentucky Department of Veterans Affairs; (2) constructing state veterans' cemeteries at Williamstown and Fort Knox; (3) fully funding the three veterans' centers and the Western Kentucky Veterans

Cemetery; and (4) providing a waiver of tuition for dependents who acquire a disability as a direct result of the veteran's service.

The third meeting of the Committee was held on November 1. Representatives of the subcommittees of the Special Advisory Committee of Senior Citizens presented their most important legislative proposals for the 2002 Regular Session. The recommendations include (1) passage of a telemarketing bill; (2) legislative support and funding of a true continuum of community-based care that will allow seniors to remain living in their homes as long as possible; (3) continuing efforts to increase the availability of health insurance in Kentucky at affordable premiums; (4) elimination of the inheritance tax on Class B and Class C beneficiaries, and retention of the federal estate tax pickup; and (5) enactment of a primary seat belt law.

The Executive Director of the Office of Aging Services briefly presented seniors issues that he anticipates will be raised during the 2002 Regular Session.

The remainder of the meeting was devoted to presentations relating to efforts to prevent terrorism in Kentucky. Presenters included the Adjutant General; representatives of the Kentucky State Police; representatives of the Transportation Cabinet, including the Department of Vehicle Enforcement; representatives from the Federal Motor Carrier Safety Administration; representatives from the Kentucky Motor Carrier Transport Association; and the Commissioner of the Department for Public Health.

The Commissioner of the Department of Public Health assessed the threat of exposure to anthrax and smallpox in Kentucky and told of efforts to make vaccines available.

A Major in the Kentucky State Police said that he is heading a counter terrorism committee. His committee is stepping up security for the Capitol "campus" and is identifying key vulnerabilities to determine what needs to be done.

The Adjutant General has been named as Kentucky's person responsible for Homeland Security and serves as the "point man" with the federal government.

The Presiding Co-Chair referenced an article from the *New York Times* which speculated that our most dangerous threat may come from conventional car and truck bombs. He cited the ease with which a Kentucky driver's license can be obtained, a license which is, in effect, a national identification card. Anyone with a driver's license who takes the proper training can obtain a Commercial Driver's License, which enables them to drive heavy trucks. The Deputy Commissioner of Vehicle Regulation told of measures currently being undertaken to require greater documentation before licenses can be obtained. The Co-Chair said that he is drafting legislation to address this problem.

Representatives of state and federal regulatory agencies that oversee motor carriers told of stepped up inspections of trucks on Kentucky's highways, inspections that

emphasize face-to-face contact and questioning of drivers. A safety director of a Kentucky trucking company told of stepped up efforts to safeguard his company's trucks and to hire responsible drivers.

**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON  
STATE GOVERNMENT**

**Senator Albert Robinson, Co-Chair  
Representative Charles Geveden, Co-Chair**

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

LRC STAFF: Joyce Honaker, Joyce Crofts, Melissa Bybee, Barri Christian, Laura Hendrix, Tom Troth, Stewart Willis, Peggy Sciantarelli, and Terisa Roland

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2002 REGULAR SESSION OF THE  
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**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**Task Force on Elections, Constitutional Amendments,  
and Intergovernmental Affairs**

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

Rep. Woody Allen  
Rep. Joe Barrows  
Rep. Jim Bruce  
Rep. Perry Clark  
Rep. James Comer  
Rep. Joe Fischer

Sen. Ernie Harris  
Rep. Charlie Hoffman  
Rep. Gross Lindsay  
Rep. Mary Lou Marzian  
Sen. Ed Miller  
Sen. Elizabeth Tori

**Senator Albert Robinson, Ex-Officio**  
**Representative Charles Geveden, Ex-Officio**



## **INTERIM JOINT COMMITTEE ON STATE GOVERNMENT**

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

### **COMMITTEE ACTIVITY**

During the 2001 Interim, the full Interim Joint Committee on State Government held three meetings prior to November 1, 2001. The Committee discussed the state employee health insurance plan; the Kentucky Retirement Systems for state and local employees; the Governor's Employee Advisory Council, established by an executive order; Kentucky population trends; and state legislative and congressional redistricting.

In August and October, the Personnel Cabinet Secretary and staff briefed the Committee on the Commonwealth's public employee health insurance program. Members expressed concern about the high cost of family plan coverage in the 2002 plan. There was also continuing concern that many counties have only one or two carriers from which to choose although, for the 2002 plan year, the number of counties with only one carrier decreased and the number of counties offering three carriers increased. The Personnel Cabinet reported that the cost of health insurance is being affected significantly by the number of retirees in the state health insurance group, noting that a large number of local governments and universities include their retirees, but not their active employees, in the group. The Committee also discussed the pros and cons of self-insurance.

At the Committee's October meeting, the Personnel Cabinet Secretary distributed the first annual report of the Kentucky Group Health Insurance Board, required under 2000 SB 288, and reviewed its key findings and recommendations.

In August, the General Manager of Kentucky Retirement Systems gave a status report on retiree health insurance. He also discussed current trends in public sector retirement systems and how Kentucky compares with other states.

In August and September, the Committee received reports from officials of the Governor's Office, Labor Cabinet, and Personnel Cabinet regarding the Governor's Employee Advisory Council, which was established in May 2001 by Executive Order 2001-623. Whether there will be an Advisory Council, how many employees will be represented on it, and what organizations will represent them depends on how employees vote in special elections that are being conducted by secret mail ballot following successful petition drives by the organizations.

At the September meeting, the Director and staff of the Kentucky State Data Center reported on the 2000 Census and population trends. Kentucky's population increased by 9.7 percent in the past ten years, compared to 13.2 percent nationally. They reported that there was a lack of growth in the youth population in Kentucky and a decline in the 25-34 age group. Kentucky's population, like the nation's population as a whole, is getting older. It is projected that in the next 20 years there will be no growth in the number of households headed by people younger than 55.

In September, the Committee discussed the pros and cons of obtaining 2000 U.S. Census data that has been adjusted for the differential undercount of different groups in the U.S. population. The State Data Center staff reported that they had received no official data on undercount from the Census Bureau, although part of a committee that was monitoring the undercount reported it to be about 50,000 for Kentucky—or about 1.2 percent, compared to 1.6 percent in 1990. The Committee voted (21 yes, 15 no) to send a letter to the Census Bureau asking that they provide Kentucky with adjusted population data for the 2000 Census, to the census block level.

The Senate Counsel for the state of Minnesota, author of several National Conference of State Legislatures publications on the legal aspects of redistricting, spoke about federal redistricting law and the different standards for drawing legislative and Congressional districts. Copies of his paper, "How to Draw Redistricting Plans That Will Stand Up in Court," are available from State Government Committee staff.

In October, the Committee continued discussion of Kentucky redistricting law. It also heard from Kentucky's Chief Information Officer and the staff of the Governor's Office for Technology regarding privacy and security issues relating to information technology systems and data. Kentucky's CIO reported that the Governor's Office for Technology is working on security at both the state and national levels, through Kentucky's Homeland Security program and the federal-state Critical Infrastructure Protection Program. GOT has undertaken several initiatives regarding privacy, including posting a model privacy statement for state agencies, briefing agencies' general counsels, surveying state agencies on their current practices, and forming a privacy committee to help shape future privacy policy.

## **Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs**

During the 2001 Interim, the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs held two meetings prior to November 2001, and anticipates meeting in November.

At its first meeting, in September 2001, the Kentucky County Clerks' Association presented their legislative proposals to the Task Force. These proposals included the following prefiled bills: 02 RS BRs 260, 261, 262, 263, 264, 265, 267, and 302. The bills concerned elections issues related to the primary election date, voter registration, gubernatorial runoff primary, voter identification, absentee balloting, precinct officer pay, transition from lever voting machines, state reimbursement for elections, and local option elections. The Task Force discussed the bills and voted to recommend the following bills to the Interim Joint Committee on State Government: 02 RS BRs 260, 263, 264, 265, 267, and 302.

At its second meeting, in October 2001, the Task Force heard information from the National Conference of State Legislatures on election reform issues, including NCSL's Election Reform Task Force. The Task Force also considered two bills, 02 RS BRs 988 and 989, which dealt with emergency procedures for elections and certification of candidates. The Task Force discussed the bills and voted to recommend 02 RS BR 989 to the Interim Joint Committee on State Government.

The Task Force anticipates considering proposed legislation at its November meeting.



**REPORT OF THE 2001  
INTERIM JOINT COMMITTEE ON  
TRANSPORTATION**

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

Sen. Dick Adams	Sen. Charlie Borders
Sen. Paul Herron	Sen. Ray Jones
Sen. Dan Kelly	Sen. Bob Leeper
Sen. Daniel Mongiardo	Sen. Albert Robinson
Sen. Richard Sanders	Sen. Ed Worley
Rep. John Arnold	Rep. Eddie Ballard
Rep. Larry Belcher	Rep. John Bowling
Rep. Ira Branham	Rep. Denver Butler
Rep. Barbara White Colter	Rep. Howard Cornett
Rep. Mike Denham	Rep. Keith Hall
Rep. Jodie Haydon	Rep. Jimmie Lee
Rep. Paul Marcotte	Rep. Charles Miller
Rep. Lonnie Napier	Rep. Marie Rader
Rep. William Scott	Rep. Jim Thompson
Rep. Tommy Turner	Rep. John Vincent
Rep. Mike Weaver	

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

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## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

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

### **COMMITTEE ACTIVITY**

During the 2001 Interim, the Interim Joint Committee on Transportation held three meetings prior to November 1, 2001.

During the Committee's August 7, 2001, meeting, Kentucky Transportation Cabinet officials gave a brief overview of a demonstration project for dual logo signage authorized by 2001 SJR 52. The Federal Highway Administration approved Kentucky's request to conduct a dual logo demonstration project. The Committee was told that each road sign would have an actual logo instead of a word message and also would contain the same type of service, such as food logos on one sign and service stations on another. The demonstration project will take place over a two-year period to determine its success. Currently, Maryland and Georgia are involved a similar signage projects and Tennessee has asked its Department of Transportation to undertake the project. The Transportation Cabinet also reported that both Louisiana and North Carolina are presently considering such projects.

The taxation of Kentucky's trucking industry was among the topics discussed at this meeting and the Committee's October 2, 2001 meeting. During these two meetings Committee members were told by representatives of the Kentucky Motor Transport Association (KMTA) that Kentucky's trucking registration has declined 23 percent while manufacturing has increased dramatically; that Kentucky was the only state that taxed or charged a fee on trucks in every possible category; the only state that has a sales and use tax on the purchase of trucks and the only state in the region; and with the exception of Tennessee, the only state that charges a sales tax on truck parts. KMTA pointed out that Kentucky receives \$8,056 billion in truck taxation and generates a \$1.6 billion trucking industry, compared to Ohio who receives \$4,576 billion in taxation and generates a \$8.5 billion trucking industry. The Association hopes that Kentucky will join 44 other states by repealing its weight distance tax. KMTA testified the trucking industry does not propose eliminating the \$75 million generated by the weight distance tax, but rather proposes offsetting the revenue by increasing the diesel fuel by three cents, thus raising it to equal

the price of gasoline and by increasing registration fees for trucks over 60,000 pounds by 126 percent.

At its September 4, 2001, meeting, the Interim Joint Committee on Transportation was presented a status report of 2001 highway construction projects, road construction funding, and how the Six-Year Road Fund has been affected by the economic slow down. The Transportation Cabinet briefed the Committee that 52 percent of the 2001 highway construction projects are on target. However, there are a number of things that are of concern to the Cabinet and could delay projects including the continued emphasis on the budget shortfall, not only for this year, but also what it means for the projects in future years of the six-year plan. Other concerns are cash flow pressures such as project overruns, the Cabinet's cost calculations, and the Governor's proposed six-percent gas tax which the 2000 Session of the General Assembly did not adopt but did enact a road plan based upon anticipated revenues from a gas tax.

Officials from the Transportation Cabinet stated that Road Fund receipts would be \$85 million short of original projections this fiscal year and are estimated to be short \$119 million in FY 2003, \$134 million in FY 2004, \$138 million in FY 2005, and \$141 million in FY 2006, and reminded the Committee members that there was a \$53 million shortfall in the last fiscal year, 2001. The members were also told that any future planning and budgeting would be based on the reduced forecasts, even though there is a projected growth for fiscal years 2002 and 2003. A stronger national and state economy would increase road funds; however, budgeting for construction projects must be based upon current projections, and new construction would be the area most likely hit the hardest by budget shortfalls.

Also discussed at this meeting were an overview of new broker contracts and a capitated rate study for the Cabinet's human service transportation delivery system, which has now been in existence for three years. As required by statute, the Cabinet conducted the rebidding process for all broker positions throughout the state. As a result of this rebidding there are two new brokers in the system, and the broker evaluation committee is scheduled to select a top bid in mid September for Region 6, the Louisville area. Some of the changes in the system are that program coordinators now have three working days to address recipients' complaints, verify all eligibility issues, and are, instead of the brokers, responsible for denying trips. The Committee was informed that the average monthly trips per year increased from 60,000 in 1997 to 96,466 in 2000; the average miles per trip declined from 24 miles in 1997 to 13 miles in 2000; and the average monthly cost per trip also declined from \$29.03 per trip in 1997 to \$19.67 per trip in 2000.

During the Committee's last interim meeting, October 2, 2001, it heard updated testimony on the trucking industry taxation issues, discussed earlier in this report under the August 7, 2001, meeting information. The Transportation Cabinet also presented several legislative issues that it planned to bring before the 2002 General Assembly. Those issues were the project management system of pre-financing biennial construction projects, a primary seatbelt initiative, and the acquisition of property for highway projects.

The Committee members were informed that, like several provisions suspended in the 2000 Session appropriations bill, similar pre-financing provisions would be included in the Cabinet's 2002 Regular Session budget language, to enable the Cabinet to continue the practice of pre-financing biennial construction projects. The Cabinet intends to do a better job convincing the 2002 General Assembly that a primary seatbelt law is the least expensive and most effective way of reducing fatalities and injuries on Kentucky's highways, and that saving lives have been proven effective in the 14 states that have enacted a primary seatbelt law. By increasing the state seatbelt usage rate by 16-17 percent, 70 to 80 lives would be saved annually.

Also during this meeting, the Kentucky Ohio Chapter of the American Concrete Pavement Association gave a fiscal analysis of using concrete in lieu of asphalt for highway construction. The analogy contained various agency and public costs, pavement design, salvage expectancy, as well as truck fuel economy. Over the construction period and a forty-year maintenance period, a one-mile, four-lane highway would cost the Transportation Cabinet \$300,000 less if it used concrete instead of asphalt. The initial costs were higher in the usage of concrete, but its overall maintenance is lower. As salvage potential, that same stretch of highway, after its forty-year usage, would yield \$400,000 for the concrete versus \$500,000 for asphalt. And, as for truck fuel economy, the Association purported that trucks use less fuel while operating on concrete. The Association said that currently, asphalt's highway life expectancy is fifteen years, whereas concrete's life expectancy is thirty plus years.

In performing its statutory legislative oversight responsibilities, the Committee reviewed two administrative regulations, under the review process established in KRS Chapter 13A. Both regulations were approved. The Committee did not receive prefiled legislation and did not discuss any proposed 2002 legislative drafts.



**REPORT OF THE 2001  
ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

**Representative John A. Arnold, Jr., Chair**

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

LRC STAFF: Susan Wunderlich, Regulations Compiler, Dave Nicholas, CSA, Donna Little, Principal Counsel, Edna Lowery, Karen Smith, Sarah Amburgey, Donna Kemper, and Ellen Steinberg.

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## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

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

### **SUBCOMMITTEE ACTIVITY**

KRS Chapter 13A established the Subcommittee as a permanent subcommittee of the Legislative Research Commission. The Subcommittee meets monthly and reviews approximately 50 administrative regulations each month. In addition to the review of proposed administrative regulations at each month's meeting, the Subcommittee reviews issues relating to the intent and implementation of KRS Chapter 13A, and issues raised concerning existing administrative regulations. Pursuant to KRS Chapter 13A, the Subcommittee assists administrative bodies in the drafting of administrative regulations. After an administrative regulation has been reviewed by the Subcommittee, it is assigned by the Legislative Research Commission for a second review by a legislative subcommittee with jurisdiction over the subject matter. Administrative regulations found deficient by the Subcommittee or another legislative subcommittee expire, unless one of the conditions established in KRS 13A.335 exists, upon sine die adjournment of the next succeeding Regular Session of the General Assembly.

During the period January 2000 through October 2001, the Administrative Regulation Review Subcommittee reviewed 991 administrative regulations. Of those administrative regulations reviewed, 4 were found deficient, 757 were amended to conform with KRS Chapter 13A and other appropriate statutes, and 230 were approved as submitted by the agency.

In August of 2000 and 2001 the Legislative Research Commission published the *Administrative Regulations Service of Kentucky*, which contains administrative regulations in effect as of August 15 of each year.

The Subcommittee is considering recommendations to develop computer programs to standardize forms relating to amendments and other material presented by administrative bodies at Subcommittee meetings and to assist administrative bodies in drafting administrative regulations.

The Subcommittee continues to review agency adherence to policies and procedures in order to insure compliance with statutory guidelines regarding

administrative regulations. During this period 76% of all ordinary administrative regulations filed had to be amended in order to comply with the authorizing statutes or KRS Chapter 13A. In only .4% of the administrative regulations filed, or less than one-half of one percent, the deficiency could not be corrected by amendment and the administrative regulation was found deficient by the subcommittee.

**REPORT OF THE 2001  
CAPITAL PLANNING ADVISORY BOARD**

**Representative Perry Clark, Chair  
Mr. Bill Hintze, VC**

Ms. Susan S. Clary	Senator Virgil Moore
Mr. James C. Codell, III	Mr. Sam Newcomb
Representative Brian Crall	Ms. Norma Northern
Mr. Lou Karibo	Senator Albert Robinson
Ms. Cicely Jaracz Lambert	Mr. Laurel True
Mr. Glenn Mitchell	Mr. Garland Vanhook
Judge Edwin White	

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

**PRESENTED TO THE  
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AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## CAPITAL PLANNING ADVISORY BOARD

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

### BOARD ACTIVITY

Since adjournment of the 2001 Regular Session, the Capital Planning Advisory Board has held six meetings. On April 24, 2001, the Board met at the offices of the Natural Resources and Environmental Protection Cabinet (NREPC) on Teton Trail in Frankfort (Department for Natural Resources). The agenda included presentations on the various programs and facilities of the NREPC. The Finance and Administration Cabinet also reported on energy efficiency and energy savings performance contracting for state buildings. A tour of some of the facilities occupied by the NREPC in Franklin County followed the meeting.

On July 24 and 25, 2001, the Board convened in Meeting Room A at the Council on Postsecondary Education in Frankfort to review the agency capital plans that had been submitted on April 15. (Instructions for the agencies to use in submitting their plans had been approved by the Board at a December 1, 2000, meeting.) Presentations on the plans were made by representatives of the various state agencies and postsecondary institutions.

On August 24, 2001, the Board continued its review of the agency capital plans. The agenda included the presentation of reports from the Council on Postsecondary Education (regarding projects and capital issues related to the postsecondary institutions) and from the state's Chief Information Officer (regarding information technology projects submitted in all of the plans, and related issues).

On September 17, 2001, the Board discussed draft recommendations to be included in the *2002-2008 Statewide Capital Improvements Plan*. It also heard presentations from representatives of the Finance and Administration Cabinet on Part One (Architectural Concept Design) of its feasibility study relative to a new state office building in Frankfort, on the work of the Energy Efficiency Solutions Team, and on the responsibilities and resources of the Department for Facilities Management.

On October 12, 2001, the Board continued its work on recommendations for the *2002-2008 Statewide Capital Improvements Plan*. The Finance and Administration Cabinet also made presentations on Part Two (Analysis of Funding Methods) of its state office building feasibility study, and on the recently completed Master Plan for the use of state-owned land in Frankfort.

On October 26, 2001, the Board gave final approval to the *2002-2008 Statewide Capital Improvements Plan* for submission to the heads of the three branches of government. That report included Policy Recommendations on various capital-related issues as follow:

- Funding for Major Capital Renewal and Maintenance - The Board recommends that legislation be enacted by the 2002 General Assembly to establish programs to fund major capital renewal and maintenance needs of state facilities.
- Funding for Maintenance Pools - The Board recommends the following regarding funding for agency maintenance pools:
  - - That the 2002-04 and subsequent budgets include a maintenance pool for each agency with responsibility for administering/managing state property.
    - That in preparing the 2002-04 and subsequent budgets, funding for maintenance pools be calculated in an equitable manner across all agencies and that an appropriate offset to the calculated need for state funds be established for those agencies with restricted or facility-generated funds available to use for this purpose (e.g., Center for the Arts, State Fair Board).
    - That a goal be established to achieve maintenance pool funding of at least \$1.50 per square foot annually for all agencies by FY 2005/06.
    - That the Governor's Office for Policy and Management and the Department for Facilities Management work to develop a formula for maintenance pool funding that takes into account not only square footage, but also condition of facilities and other relevant factors. Periodic reports on this effort should be presented to the Capital Planning Advisory Board.
    - That when Investment Income revenues are insufficient to adequately finance the agency maintenance pools, the state General Fund or other appropriate revenues should be used.
- Construction of a New State Office Building in Franklin County - ...The Board recommends that the 2002-04 budget provide for the construction of a new building in Franklin County to house state offices.
- Replenishing the Budget Reserve Trust Fund - The Board recommends that the Governor and General Assembly place a high priority on replenishing the Budget Reserve Trust Fund as quickly as possible to a level that represents three to five percent of General Fund revenues.

- Responsibilities and Resources of the Department for Facilities Management - The Board recommends that KRS 42.027 be amended to specify that the Department for Facilities Management (DFM) shall have the authority and primary responsibility for developing and implementing policies applicable to all state agencies to ensure effective planning for and efficient operation of state offices and shall provide appropriate assistance regarding the planning and efficient operation of all state facilities.

The Board recommends that additional resources (funding and personnel) be provided to the DFM in the 2002-04 and subsequent biennial budgets to address the expanded responsibilities that the Department has assumed in recent years and that are anticipated in the future.

- Development and Implementation of a Real Property/Facilities Management Database
  - The Board recommends that KRS 42.027 be amended to include in the duties and responsibilities the development and maintenance of a comprehensive real property/facilities management database for the Executive Branch, and to specify that all state agencies and postsecondary institutions are to work cooperatively with the DFM in this effort.

Following a complete evaluation of the needs and a determination of the cost of a database to meet the needs by the DFM, the Board also urges the Secretary of the Finance and Administration Cabinet to allocate amounts from the Capital Construction and Equipment Purchase Contingency Fund to address non-recurring costs associated with implementing the project.

- Facilitation of Effective/Efficient Housing of State Agencies - The Board recommends that KRS 45.770 be amended to allow the Capital Construction and Equipment Purchase Contingency Fund to be used for moving/relocation expenses to facilitate achieving the goal of housing of agencies in state-owned space (rather than leased facilities), and the goal of consolidation of agencies housed in multiple leased sites.

The Board recommends that the Finance and Administration Cabinet identify and propose other legislative changes for action by the 2002 General Assembly that would enhance the Department for Facilities Management's ability to carry out its responsibilities relative to the housing of state agencies.

- Leasing of VA Property to House Eastern State Hospital Functions- The Board endorses and recommends that the Executive and Legislative Branches approve the proposal by the Cabinet for Health Services to lease space at the Veterans' Affairs Medical Center in Lexington to house Department for Mental Health and Mental Retardation Services functions now located on the Eastern State Hospital campus.

- Energy Efficiency in State Buildings - The Board recommends that favorable consideration be given to administrative and legislative changes that would allow for greater utilization of the provisions of KRS 56.770 – 56.784 (Energy Efficiency Program for State Government Buildings) while retaining appropriate oversight.
- Information Requirements for Recommended Capital Projects - The Board urges that the Executive, Judicial, and Legislative branches adhere to the requirements contained in KRS 45.760(2)(b) relative to reporting the total estimated cost of completing a recommended project.

The Board also recommends that KRS 45.760 be amended to require that if the total cost of completing the project is greater than the estimated cost during the biennium, 1) the recommendation must clearly describe the work to be completed with the funding that is recommended for the biennium, and 2) the recommendation must certify that, if additional amounts for the project are not forthcoming, the work described is sufficient to provide for a viable project that addresses the agency’s needs.

- Information Technology – System Definition - The Board recommends that KRS 7A.010 and KRS 45.750 be amended to define the term “information technology (IT) system” to include all costs involved in the deployment of a project as proposed by the state’s Office of the Chief Information Officer (CIO).
- Information Technology – Enterprise Shared Infrastructure and Services - The Board endorses the Chief Information Officer’s recommendation that information technology (IT) planning should emphasize an approach that fosters support for the enterprise vision of a shared environment.
- Information Technology – Security - The Board endorses the Chief Information Officer’s recommendation that information technology (IT) planning should place a high priority on including security components in capital systems.

The Plan also makes recommendations relative to two categories of capital projects: those proposed to be financed from state funds (e.g., General Fund (cash or bonds), Investment Income, Capital Construction Surplus), and those proposed to be financed from other than state funds.

- Projects Proposed to be Financed from State Funds - The Board recommends that a very conservative state-funded capital construction program be approved for the 2002-04 biennium due to the fiscal uncertainty facing the state, the limited capacity expected to be available for the issuance of bonds, and the need to place a priority on replenishing the Budget Reserve Trust Fund.
- ***Maintenance of existing state-owned facilities should be the highest priority for funding in the 2002-04 capital budget***, with priority on funding for the agency maintenance pools, the postsecondary education capital renewal and maintenance

pool, and those other minor (less than \$1 million each) projects to address maintenance and life/safety needs that have been identified as high priorities by the agencies.

The Board urges that the agency maintenance pools be funded consistent with the funding goals and other items reflected in the separate Policy Recommendation. The Board also recommends that state funds for a postsecondary education capital renewal and maintenance pool be matched by the institutions at varying rates based on the institutions' efforts to maintain existing facilities.

- To the extent amounts are available for major construction, equipment, and information technology projects, the following should be considered as high priorities for funding in 2002-04: *(The following list is in alphabetical order by Branch; it does not reflect a prioritized ranking.)*

Capitol Restoration-related projects (Finance & Administration Cabinet)  
Construct HSC Research Facility, Phase III (University of Louisville)  
Construct Morgan Building Addition-Part A (University of Kentucky)  
Construct NASA Space Science Center (Morehead State University)  
Construct Phase II Expansion – KY Correctional Institution for Women (Justice Cabinet)  
Construct South Wing C, KY Fair & Exposition Center (Tourism Development Cabinet)  
Design/Renovate Phase I State Office Building (Finance & Administration Cabinet)  
Enterprise Infrastructure Security (Governor's Office for Technology)  
Expand Elliott Co. Phase II, 850 Bed Medium Security Prison (Justice Cabinet)  
Expand State Emergency Operations Center (Military Affairs)  
Plan/Design KY Public Safety Training Center (Justice Cabinet)  
Renovate Old Science Building (Northern Kentucky University)  
Replace Commonwealth's Payroll System (Personnel Cabinet)  
Unified Criminal Justice Information System-related projects (GOT & KSP)  
Construct Judicial Center in Adair County (Judicial Branch)

In a separate Policy Recommendation, the Board is specifically recommending the construction of a new state office building in Franklin County.

- Funding for programs that provide assistance to non-state entities through grants or loans should focus on those programs that will enable the state to access federal funds for needed projects.
- Projects Proposed to be Financed from Other Than State Funds - The Board recommends that the 2002-04 budget authorize all projects proposed by state agencies and postsecondary education institutions to be financed 100% from Federal Funds, Restricted Funds, Other Funds, or Road Funds, with the following exceptions:

- Projects that will require the expenditure of significant additional state funds for their operation and maintenance;
- Projects that will commit the state to fund significant costs to complete the project after the available Federal Funds/Restricted Funds/Other Funds/Road Funds have been expended;
- Restricted Funds or Road Funds should not be authorized for projects to such an extent that agency programs or operations also funded by that source would be jeopardized;
- The top priority for the use of Restricted Funds of the postsecondary education institutions should be projects to address life/safety and deferred maintenance needs for which state funds are not provided; and
- A high priority for the use of Road Funds should be Transportation Cabinet projects to address life/safety and deferred maintenance needs.

**REPORT OF THE 2001  
CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

**Representative Jodie Haydon, Chair  
Senator Bob Leeper, VC**

Sen. Tom Buford  
Rep. Robert Damron  
Rep. Paul Marcotte

Sen. Bob Jackson  
Rep. Jim Wayne

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

**PRESENTED TO THE  
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AND THE  
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KENTUCKY GENERAL ASSEMBLY**



## CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

**JURISDICTION:** The Committee is a permanent subcommittee of the Legislative Research Commission, charged with overseeing: (1) the expenditure of funds budgeted for capital projects; (2) the allotment of funds from the Emergency Repair, Maintenance, and Replacement Account and the Capital Construction and Equipment Purchase Contingency Account; (3) the state's acquisition of capital assets, including the lease of real property; (4) the issuance of bonds by the Commonwealth, and related individual projects; and (5) the issuance of bonds by or on behalf of local school districts.

### COMMITTEE ACTIVITY

As a statutory committee, the Capital Projects and Bond Oversight Committee meets monthly, even when the General Assembly is in session. This report covers Committee activity between November 1, 2000, and October 31, 2001. During this period, the Committee met 12 times. Ten of the Committee's meetings were held in Frankfort in the Capitol Annex. In January 2001, the Committee held its monthly meeting in Frankfort at the new Kentucky Correctional Industries (KCI) building, a recently completed capital project. The KCI building, which now serves as the agency's office, showroom, and warehouse, was formerly a Lowe's store and was renovated using inmate labor. In May 2001, the Committee met at the University of Louisville's Belknap Campus and toured various university capital projects at the Belknap Campus and the University's downtown Health Sciences Center. A description of various issues considered by the Committee during the reporting period follows below.

**Interim proposal by Western Kentucky University to renovate basketball arena.** The Committee spent parts of three committee meetings considering a series of unusual interim proposals by Western Kentucky University (WKU) relating to E. A. Diddle Arena. Originally, WKU proposed to transfer ownership of the Arena (and related athletic facilities) to the City of Bowling Green. The City, in turn, was to issue bonds to fund a \$26 million renovation of the Arena and related facilities. Revenues generated from use of the properties, including an increase in student fees, would be used by the City to cover debt service costs, and the City would contract with WKU to manage the building and related properties. The University later made significant changes in the proposal which would allow the University to retain ownership, and instead to enter into a third-party financing arrangement with the City of Bowling Green whereby the City would oversee the renovation work and WKU would pay for the improvements under a leasing arrangement. It was later concluded by the Secretary of the Finance and Administration Cabinet that the project should not proceed until approved by the General Assembly.

As part of its work on this issue, the Committee asked that representatives of the Finance and Administration Cabinet, the Council on Postsecondary Education, the

Attorney General's Office, and the State Auditor's Office review and make recommendations on any statutory changes needed to improve the process of reviewing proposals similar to the E.A. Diddle Arena renovation in the future. The Committee anticipates a presentation of this group's recommendations at an upcoming meeting.

**More state-owned office space in Frankfort.** As part of its review of individual leases discussed later in this report, Committee members expressed concern that there was not sufficient competition for state leases in Frankfort. The Commissioner of the Department for Facilities Management (Finance and Administration Cabinet) told the Committee in January 2001 that the Franklin County rental space market is now aging with space going off-line. At the same time, little new space is being developed. As a result, he said, the Department is beginning to see increased renewal rates.

At the Committee's request, Finance Cabinet officials consulted with the Kentucky Employees Retirement System and the Teachers Retirement System about possibly building office space in Frankfort and then leasing it to state government. The Finance Secretary reported back to the Committee that the retirement systems are not interested in real estate investments at this time.

Later in the year, the Finance Deputy Director made two presentations, at the Committee's request, on a recently completed feasibility study authorized in the 2000-02 budget. The study included design of two prototype office buildings (66,000 GSF and 127,000 GSF), and evaluated the cost of using various approaches to finance new space for state offices: (1) Commonwealth of Kentucky ownership with the state issuing the bonds; (2) local government ownership with the city or county issuing the bonds and the state lease-purchasing the building over the period of the bonds; (3) private ownership with the state lease-purchasing the building; and (4) private ownership with conventional state leasing of the space. A presentation was also made on the Master Plan for Use of State-Owned Land in Franklin County. The Committee was told that the Finance Cabinet's 2002-04 capital budget request will include a 350,000 SF "generic" office building to be financed using a lease-purchase arrangement with either a local government or "off-books" entity issuing the bonds in order not to cut into the state's bond capacity.

**Alternative methods of construction delivery.** The Finance and Administration Cabinet Secretary briefed the Committee on new methods of construction delivery that the Administration is using or plans to use. These new methods include "design-build" whereby both design and construction services are obtained under one contract and "construction management-at-risk" in which a construction manager is used instead of a general contractor. Subsequently, the Capital Projects and Bond Oversight Committee, in conjunction with the Government Contracts Review Committee, asked the Finance Cabinet and the universities that manage their own capital construction to file contracts associated with these alternative construction delivery methods with both committees.

**Proposed purchase of machines by the Kentucky Lottery Corporation (KLC).** In June 2001, the KLC submitted to the Committee a plan to acquire 1,203

additional vending machines at an estimated annual cost of \$1.3 million. This plan was adopted by the KLC Board without input from the KLC President and CEO who recommended a slower growth strategy. The Lottery Corporation later withdrew its submittal and indicated that they planned to hire a consultant to review the proposed acquisition. Based on the consulting firm's recommendation, KLC subsequently submitted for the Committee's review a revised plan, which was accepted, to acquire only 300 vending machines at an approximate annual cost of \$306,000.

**Status of the Budget Reserve Trust Fund (BRTF).** The Executive Director of the Office for Financial Management discussed the use of the Budget Reserve Trust Fund to address recent budget shortfalls. At the beginning of the current biennium, the Fund had a balance of \$278.6 million; it is now down to \$120 million. The Executive Director of the Office for Financial Management indicated that the bond rating agencies have discussed with the state the need to develop a plan to restore the BRTF. He noted that while they do not expect the state to fully restore it in one budget cycle, the rating agencies do expect a solid and realistic plan to begin restoring the Fund.

**Analysis of the state's debt capacity.** At the Committee's request, the Secretary of the Finance and Administration Cabinet and his staff discussed the state's debt capacity and the current policy to limit total debt service payments to no more than six percent of total revenues. Finance Cabinet officials told the Committee that under this current policy, they estimate new debt in the 2000-02 budget should be limited to no more than \$235 million.

**Fire at the University of Kentucky.** Officials from the University of Kentucky briefed the Committee on the May 15, 2001, fire that caused significant damage to the University's Administration Building. The officials indicated that they hoped to restore the building and agreed to keep the Committee updated on restoration efforts.

The Committee also reviewed numerous agency requests concerning capital projects and bond issues; a summary of those reviews follows.

### **Review of Unbudgeted Capital Projects**

The Committee approved eleven unbudgeted capital projects with a total scope of \$21,193,385. The unbudgeted projects approved by the Committee were funded through a mixture of federal grants, state funds (mostly restricted funds), and private donations as follows:

**University of Louisville - Health Sciences Campus Fitness Facility**  
(\$1,660,000: \$830,000 restricted funds and \$830,000 in Private Funds).

**Department of Military Affairs - Deployable Force on Force Instrumented Range System Center** (\$499,000 federal funds) and **Ready**

Building for the Kentucky Weapons of Mass Destruction Civil Support Team (\$1,327,000 federal funds).

**University of Kentucky** - Renovation of Gluck Equine Research Center (\$4,700,000: \$4,300,000 Private Funds and \$400,000 restricted funds); Arboretum Visitor Education Center, Phase I (\$563,385 Private Funds); College of Law Classroom Renovations Project (\$800,000: \$750,000 federal funds and \$50,000 restricted funds); and Shively Sports Center HVAC Renovation Project (\$475,000 Private Funds).

**Department of Juvenile Justice** - Campbell Regional Juvenile Center Classroom, School Office, and Dining Room Project (\$645,000: \$580,000 federal funds and \$65,000 restricted funds).

**Morehead State University** - NASA Satellite Tracking Station Relocation Project (\$4,200,000: \$50,000 restricted funds, \$270,000 road funds, and \$3,880,000 federal funds).

**Tourism Development Cabinet/Department of Fish and Wildlife Resources** - Cedar Creek Reservoir, Lincoln County (\$224,000 federal funds).

**Department of Veterans' Affairs** - Thomson-Hood Veterans Center Special Care Unit Renovation and Relocation Project (\$2,100,000: \$1,365,000 federal funds and \$735,000 restricted funds).

KRS 45.760(14) permits a capital construction project to be authorized even though it is not specifically listed in an enacted budget if at least 50 percent of the costs are from private or federal sources, and if the project is presented to the Committee for review.

The Committee also reviewed two unbudgeted projects characterized as emergency projects: **Murray State University** - Renovate Hart Hall Waterline/Other Emergency Repairs at Hart, Franklin, White, and Regents Halls (\$1.5 million in Agency Bonds) and **Kentucky Community and Technical College System (KCTCS)** – Prestonsburg Community College Pike Building HVAC (\$476,000: \$189,500 Deferred Maintenance and Government Mandates Pool and \$286,500 restricted funds).

### **Review of Budgeted Capital Projects**

The Committee reviewed agency requests to increase the scope of 35 previously authorized capital projects (both those authorized by the General Assembly and those authorized in the interim through the Committee review process). Requests were made primarily to permit the awarding of contracts when bids exceeded budget. In several cases, requests were made to increase the project scope because of the availability of

private or federal funds. Pursuant to KRS 45.760(13), any increase in excess of 15 percent of a project's authorized scope must be funded by federal or private funds. The proposed scope increases for the 35 projects totaled approximately \$15.4 million. Sources proposed to cover these cost overruns included private, federal, and restricted (agency) funds.

The Committee approved 31 of the 35 proposed scope increases as submitted. One of the scope increases approved by the Committee was a scope increase for the authorized **Morehead State University (MoSU) – Land Acquisition Pool Related to Campus Master Plan**. The requested scope increase was needed to permit MoSU to acquire property adjoining the campus which also included a trailer park. While the University's interest was in acquiring the land, not the trailer park, MoSU officials told the Committee that the University would continue to operate the park at least initially. Members of the Committee expressed concerns relating to safety and liability. The Committee approved the acquisition but strongly encouraged MoSU not to operate the trailer park. MoSU acquired the property but decided not to operate the trailer park.

The Committee objected to a proposal to increase the scope of the **Transportation Cabinet – New Transportation Office Building** by \$1.8 million (80% federal funds; 20% Road Funds). The scope increase was for design costs related to a Statewide Transportation Operations Center. The Committee was told that once the Center was designed, there would be an additional investment of \$5.3 million required to install the necessary technology. Expressing concerns in light of major budget shortfalls, the Committee asked the Finance Secretary to delay action on inclusion of the Statewide Transportation Operations Center in the new facility until the legislature considers the 2002-04 budget. The Finance Secretary concurred with the Committee.

Also, the Committee objected to the proposed transfer of \$900,000 of restricted funds generated at the Thomson-Hood Veterans' Center for the **Department of Veterans' Affairs – Eastern Kentucky Veterans' Center Project** to address a cost overrun. The Committee asked the Finance Secretary to use a mixture of funds instead from the Capital Construction and Equipment Purchase Contingency Account and available operating funds. However, the Finance Secretary notified the Committee that he had decided to fund the cost overrun as initially proposed.

In addition to these scope increases, the Finance and Administration Cabinet reported a proposed major change in one project authorized in the 2000-2002 budget: **Kentucky Community and Technical College System (KCTCS) - Ashland Technical College: Original Campus Renovation**. The change proposed by the KCTCS was to build a new facility at an industrial park rather than renovate existing facilities as authorized. KCTCS officials told the Committee they hope to eventually move the entire Ashland Technical College campus to the industrial park. The Committee approved the modification, contingent upon review and approval by the President of the Council on Postsecondary Education. The full Council later approved the modification.

The Committee took no action on two project scope increases. In the first case, the Finance and Administration Cabinet approved an emergency increase using \$3,000 in restricted funds for the **State Fair Board – Freedom Hall Floor Refrigeration/Dehumidification Project**. This increase was needed to make software corrections in the refrigeration controls just before the first scheduled ice hockey game on the new floor. In the second case, a scope increase of \$100,000 in federal funds for **Department for Juvenile Justice – McCracken Regional Juvenile Center** was already obligated per construction contract prior to the Committee’s review.

### **Review of Allocations from the Statutory Capital Funds**

There were only two allocations made from the Capital Construction and Equipment Purchase Contingency Account during the reporting period. The Committee approved an allocation of \$900,000 from the Contingency Account to permit acceptance of the low bid for the **Department of Parks - Dale Hollow Lake Resort Park Golf Course and Club House Project** (originally authorized by the 1998 General Assembly at a scope of \$6 million). The Parks Commissioner told the Committee that the Contingency Account allocation would not be sufficient to complete the project. He indicated that the Department would be seeking an additional \$14 million from the 2002 General Assembly to finish previously funded golf courses at Dale Hollow, Pennyryle, Mineral Mounds, Grayson, Yatesville, and Kincaid State Parks. The second Contingency Account allocation approved by the Committee was for \$179,000 to fund the **Cabinet for Health Services - Usage Feasibility Study of Intermediate Care Facilities for the Mentally Retarded**.

Similarly, the Committee reviewed only two allocations from the Emergency Repair, Maintenance, and Replacement Account. An allocation of \$300,000 was made to increase the scope of the **Department of Parks - Technology Upgrades Project**, a project originally approved by the 2000 General Assembly at a scope of \$588,000. The second allocation was for \$74,000 to the **Department of the Treasury** to cover initial costs for the **Lease of Check Sealing Equipment**. (The Department had the year prior spent \$100,000 for check sealing equipment that was not compatible with the Department’s other equipment and created safety issues since it used both heat and pressure to perform.)

### **Review of Bond-Funded Loan/Grant Programs**

The Committee reviewed and approved seven grants, representing \$2,589,000, from the **Economic Development Bond (EDB) Pool**. This bond-funded program makes grants (forgivable loans) to local governments to leverage against private investment for economic development in the Commonwealth. In return for the assistance, companies are required to make commitments regarding job creation and/or job maintenance. The seven projects funded and the amount of EDB assistance awarded were: Floyd County, **Worldwide Equipment** (\$250,000); City of Paducah, **VMV Enterprises Inc.** (\$250,000); Logan County Fiscal Court, **Auburn Hosiery Mills** (\$264,000); Lexington-Fayette Urban County Government, **SECAT, Inc.** (\$1,000,000); City of Springfield, Washington County,

Springfield-Washington County Economic Development Authority (\$500,000); City of Owensboro, Toyotetsu Mid America LLC (\$100,000); and Hancock County, Willamette Industries (\$225,000). During its review of the Willamette Industries project, the Committee formally expressed concern to the Economic Development Cabinet over the lengthy delay in the project caused by Hancock County's insistence that all job commitments associated with the project were to be filled by Hancock County residents.

Also reviewed was a report of EDB job creation and job maintenance requirements for projects previously approved by the Committee. Of the 21 projects currently being monitored by the Cabinet for Economic Development, 18 (86%) are in compliance with job creation and maintenance requirements.

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

1. **Fund A (Federally Assisted Wastewater Revolving Loan Fund)** - Six loans, including one planning and design loan, totaling \$5,708,999 for the cities of White Plains, Manchester, Carlisle, Carrollton, Cloverport, and the Mountain Water District. In addition, a previously approved Fund A loan for the City of Wurtland was increased by \$350,000.
2. **Fund B1 (Infrastructure Grant, state-funded)** - One grant, totaling \$400,000, for the Lewis County Fiscal Court. (This grant was specifically authorized by the 2000 General Assembly.)
3. **Fund C (Government Agencies Program, user-supported)** - Two loans, totaling \$7,251,642, for the City of Barlow and the Oldham County Water District.
4. **Fund E (Solid Waste Revolving Loan Program)** - Three loans, totaling \$499,600, for the Meade County Fiscal Court; the City of Hardinsburg; and the Bell County Garbage and Refuse Disposal District. Nine grants (Fund E loan repayments) for the Kentucky Certified Clean Counties Program totaling \$957,571 for the counties of Grant, Knott, Letcher, Magoffin, Menifee, Washington, Meade, Hardin, and Pike. (The Kentucky Certified Clean Counties Program was established by Executive Order 2001-384 in March of 2001 to assist counties in clean up of illegal dumps. In addition to Fund E loan repayments, funds from the Transportation Cabinet have also been made available to participating counties for up to 75% of cleanup costs.)

5. **Fund F (Federally Assisted Drinking Water Revolving Loan Fund)**  
- Eleven loans totaling \$25,148,255 for the City of Morehead, City of Hickman, City of Providence, Greater Fleming County Regional Water Commission, City of Ashland, Grayson County Water District, City of Pineville, Logan-Todd Regional Water Commission, Crittenden-Livingston County Water District, Mountain Water District, and the Bullock Pen Water District.

### **Review of Bond Issues and Financing Agreements**

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

1. **Kentucky Turnpike Authority** - Three bond issues, totaling \$393,260,000 to fund road construction projects approved in the 1998-2000 budget and to refinance existing debt.
2. **Kentucky Economic Development Finance Authority** - Six bond issues totaling \$149,000,000. In these particular issues, the state is only a conduit for the sale of the bonds and has no liability for their repayment. Most of the bonds provided financing for various hospitals and nursing homes, and to refund existing debt.
3. **State Universities** - Nine bond issues, totaling \$100,270,000, to fund authorized projects and to generate debt service savings by refinancing existing debt.
4. **Kentucky Higher Education Student Loan Corporation** – One new issue for \$150,000,000 to provide new money for student loans.
5. **Kentucky Housing Corporation** – Two new issues, totaling \$189,135,000, to fund the purchase of low-income multi-family and single-family housing mortgages and to refund existing financing.
6. **School district bond issues with School Facilities Construction Commission participation** – Seventy-three issues, totaling \$213,886,000.
7. **School district bond issues 100% locally funded** – Seventy-six issues, totaling \$464,962,468. Included in the total was a \$7.5 million Kentucky Interlocal School Transportation Association (KISTA) issue to finance the purchase of school buses for 39 school districts, a \$34.7 million Jefferson County Tax and Revenue Anticipation Note (TRAN) issue, and a \$147.6 million combined KISTA/Kentucky School Board

Association TRAN for 153 school districts. The TRAN issues are used to manage the cash flow of the districts.

8. **Kentucky Asset/Liability Commission** – Two project note issues totaling \$146,575,000. Proceeds from a General Fund issue (\$37,450,000) provided permanent financing for technology-related projects and funded equipment replacement pools at the Commonwealth's postsecondary education institutions as authorized by the 2000-2002 budget. Proceeds from an Agency Fund issue (\$109,125,000) which has not yet been issued are to fund construction projects for several universities and the Kentucky River Authority. General Fund TRAN issues in the amount of \$302,517,000 were also considered.
9. **State Property and Buildings Commission** – Seven issues, totaling \$1,131,395,802, to provide long-term financing for projects authorized in the 1998-2000 budget and the 2000-2002 budget. The issues also provided proceeds to refund existing bonds to gain a savings in debt service expense.

### **Review of State Leases**

The Committee reviewed 27 state agency lease modifications. Eight of these lease modifications increased annual rental payments by a total of \$197,966 to cover the cost of state agency requested improvements; another 18 increased the amount of space leased; and one decreased the amount of leased space.

The Committee approved the award by the Finance and Administration Cabinet of five renewal leases with individual annual costs over \$100,000, four of which were for office space in Franklin County. The Director of the Division of Real Properties told the Committee that these leases were advertised, and in each case there was little competition, and the current landlords were awarded the contracts. The renewals included rate increases ranging from 19% (four years) to 38% (six years). Together, the four Frankfort renewals represented \$584,288 in increased annual rental costs. In addition, the Committee approved eleven new leases for state agencies. Most of the new leases are for office space. However, one lease was for hotel rooms for correctional officers who live in the eastern part of the state and who have been recruited by the Department of Corrections to work three day-12 hour shifts at correctional facilities in Oldham County and Shelby County. The Committee also approved two emergency leases.

Over a period of several months, the Cabinet for Families and Children proposed various lease expansions and improvements with large associated cost increases. The Committee deferred action on proposed leases by the Cabinet on two occasions until more information was provided. After the last deferral, the Cabinet provided a report on all lease expansions and improvements the Cabinet had made or planned to make during the

current biennium. The total estimated annual increase of leasing costs for the Cabinet was estimated to be \$2.4 million, with \$1.3 million of that increase directly related to the Cabinet's Workplace Initiative. The Cabinet sought funding for the Workplace Initiative in the 2000 General Assembly, and while it did not receive any additional funding, the Cabinet was authorized to expend up to \$1.4 million of their existing funds for lease expansions for the initiative. Cabinet officials told the Committee that the Workplace Improvement Initiative was a high priority for the Cabinet, especially the effort underway to assure more privacy for clients.

The Committee also approved two leases and a lease expansion for postsecondary education institutions.

### **Review of Court Projects**

The Committee reviewed and approved one request by the Administrative Office of the Courts to use the Court Facility Use Allowance Contingency Fund for the McLean County Courthouse Renovation/New Annex Project authorized in the 1998-2000 budget. Through the use of the Contingency Fund, the scope of the project was increased from \$3,752,000 to \$3,865,000.

Review of only one scope increase in a court facility during this reporting period is in sharp contrast to previous years in which scope increases for court projects were numerous and large. It should be noted that the 2000 General Assembly made significant changes in the review and oversight of court projects with the enactment of House Bill 734, and the Chief Justice subsequently issued new rules on the construction of court facilities.

**REPORT OF THE 2001  
EDUCATION ASSESSMENT AND ACCOUNTABILITY  
REVIEW SUBCOMMITTEE**

**Senator David Karem, VC  
Representative Harry Moberly, VC**

Sen. Lindy Casebier  
Sen. Dan Kelly  
Rep. Mary Lou Marzian

Rep. Frank Rasche  
Sen. Tim Shaughnessy  
Rep. Mark Treesh

LRC STAFF: Sandra Deaton and Kelley McQuerry

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE**

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

### **SUBCOMMITTEE ACTIVITY**

The subcommittee met eight times prior to October 31, 2001.

The subcommittee began its interim work with a presentation from the Commissioner of Education on the 1999-00 statewide test results. The Commissioner explained that the test results were the second year of the interim accountability model that was put in place as a transition between the old and new testing system. The interim system allowed that rewards would still be granted to schools and districts and that intervention and assistance would be provided to schools and districts needing support. The \$22.4 million in rewards was shared by 655 schools. Six high schools were ineligible because of an eight percent dropout rate. The dropout rates are down, 5.4 percent to 4.9 percent, because schools have been more diligent about reducing the dropout rate. The highest index score was elementary reading at 76.9 percent and the lowest performing areas were arts and humanities, and practical living and vocational skills.

The Subcommittee was directed by 2000 HCR 88 to study the issues of the adequate preparation of elementary and secondary school students for promotion to higher grades, the establishment of appropriate educational criteria for entrance into higher grades, and the remediation rates of students entering postsecondary educational institutions. The Subcommittee began the study by taking testimony from the following high achieving schools: Central City Elementary School in Muhlenberg County, Barren County Middle School, McLean County Middle School, Lafayette High School in Fayette County and Pikeville High School in the Pikeville Independent School District. The representatives of the schools all discussed their curriculum, instructional practices, and other factors that they believe are critical to their success. Though all the schools are different, there are elements that the schools have in common such as administrative leadership, faculties and staffs who worked as teams, the development and use of a consolidated plan that was built on assessment data and other types of information, community support, parental involvement, and a strong belief that each student can learn and deserves a quality education. Each school had mechanisms in place for deciding when a student is ready to move on to the next level or grade. Some agreed that firm entrance requirements for the next level would be ideal but were cautious about recommending them since it is difficult to create such requirements that are fair and take into consideration students' individual differences.

As part of the review of elementary school programs, the Subcommittee received testimony from Department of Education staff on the primary program and the efforts of the Department to help all students be proficient readers. In December, the Subcommittee will continue its work by reviewing the transition of high school students to postsecondary education.

The Subcommittee took on new supervisory responsibilities over the Office of Education Accountability (OEA) after the passage of 2000 Senate Bill 280. The bill requires the Subcommittee to advise and monitor the OEA; to receive and review reports from OEA including regular reports that summarize OEA's investigative activity; provide authorization and direction to the OEA in its efforts to monitor and verify the accuracy of reports of the Department of Education and the Kentucky Board of Education; give authorization and direction to OEA on studies that need to be conducted; approve OEA's annual report before it is forwarded to the Governor, the Legislative Research Commission (LRC) and the Kentucky Board of Education; approve the annual report of the Division of School Finance of the OEA before it is forwarded to the Governor, the LRC and the Kentucky Board of Education; and approve OEA's recommendations for legislative action prior to submitting them to the LRC.

The Department of Education, over a period of 18 months involved 1651 teachers in a process to set new standards defining what *novice*, *apprentice*, *proficient*, and *distinguished* should mean. The chair of the Kentucky Board of Education, the Commissioner of Education, two teachers, and the chair of the National Technical Panel on Assessment and Accountability appeared before the Subcommittee to describe the process and the standards.

The Commissioner of Education appeared before the Subcommittee in October 2001 to report the 2000-2001 statewide test results, the first year of the two-year cycle. The results combined with the 2001-2002 results will mark the first point after the baseline on each school's customized growth chart and will show the trend line toward proficiency or beyond by 2014. He reported that for the first time, Kentucky students are performing at higher levels in every content area and at every grade level. The percentage of students at the proficient level is growing and the percentage of students at the novice level is shrinking. The continuing challenges are the low-performing schools and districts, and the achievement gaps by race, gender, and disability.

The Subcommittee reviewed one administrative regulation, 703 KAR 5:140, that established the school and district report cards, and determined that it met statutory authority.

**REPORT OF THE 2001  
GOVERNMENT CONTRACT REVIEW COMMITTEE**

**Representative Brent Yonts, Chair**

Rep. Jesse Crenshaw  
Rep. Bob Heleringer  
Sen. Robert L. "Bob" Jackson

Sen. Marshall Long  
Rep. Kathy W. Stein  
Sen. Katie K. Stine

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **GOVERNMENT CONTRACT REVIEW COMMITTEE**

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

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

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

## **COMMITTEE ACTIVITY**

The Government Contract Review Committee is a statutory committee of the Legislative Research Commission and is required to meet monthly. During the 2000 —

2001 fiscal year beginning July 1, 2000, and ending June 30, 2001, the Committee reviewed 2,043 personal service contracts and 798 amendments to personal service contracts. The Committee also reviewed 1,003 personal service contracts for \$10,000.00 and under, which are submitted to the Committee for informational purposes only.

During the 2000-2001 fiscal year beginning July 1, 2000, and ending June 30, 2001, the Committee reviewed 1,893 memoranda of agreement and 1,432 memoranda of agreement amendments. The Committee also reviewed 2,046 memoranda of agreement for \$50,000.00 and under, which are submitted to the Committee for informational purposes only.

During the 2000 - 2001 fiscal year beginning July 1, 2000, and ending June 30, 2001, the Committee reviewed a total of 3,844 personal service contract items and a total of 5,371 memoranda of agreement items for a total of 9,215 items.

Since the start of the 2001-2002 fiscal year, beginning July 1, 2001, through October 9, 2001, the Committee has reviewed 712 personal service contracts and 221 amendments to personal service contracts. The Committee has also reviewed 441 personal service contracts for \$10,000.00 and under, which are submitted to the Committee for informational purposes only.

Since the start of the 2001-2002 fiscal year, beginning July 1, 2001, through October 9, 2001, the Committee has reviewed 928 memoranda of agreement and 577 memoranda of agreement amendments. The Committee also reviewed 1,156 memoranda of agreement for \$50,000.00 and under, which are submitted to the Committee for informational purposes only.

Since the start of the 2001-2002 fiscal year, beginning July 1, 2001, through October 9, 2001, the Committee has reviewed a total of 1,374 personal service contract items and a total of 2,661 memoranda of agreement items for a total of 4,035 items.

**REPORT OF THE 2001  
MEDICAID MANAGED CARE OVERSIGHT ADVISORY COMMITTEE**

**Senator Daniel Mongiardo, Co-Chair  
Representative Paul Bather, Co-Chair**

Sen. Julie Denton

Sen. Vernie McGaha

Sen. Dan Seum

Sen. Johnny Ray Turner

Rep. James Bruce

Rep. Steve Nunn

Rep. Dottie Sims

Rep. Jack Coleman

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **MEDICAID MANAGED CARE OVERSIGHT ADVISORY COMMITTEE**

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

### **COMMITTEE ACTIVITY**

Since the end of the 2001 Regular Session, the Medicaid Managed Care Oversight Advisory Committee held six meetings prior to November 1, 2001.

In response to the projected Medicaid shortfall of \$280 million for the 2002 state fiscal year, the Committee held two regional meetings and four meetings in Frankfort to collect information from providers, Medicaid recipients, and citizens about how the Medicaid program could be improved. The meetings from July through October were also transmitted to several telehealth sites. Individuals at each site were given the opportunity to provide comments.

The focus of the first meeting, held in May 2001, was to discuss the work plan for the upcoming meeting. The Co-Chairs of the Committee presented a work plan to the members for discussion and asked for their input. It included regional meetings in Eastern and Western Kentucky, in addition to meetings in Central Kentucky. The presentation included the goals of the regional meetings and the importance of provider testimony from various parts of the state. The Committee also heard testimony from a representative of the National Conference of State Legislatures regarding approaches that other state Medicaid programs are using to control costs, an update on Medicaid from the Special Advisor to the Governor on Medicaid, and the results of the 2000 consumer and provider satisfaction surveys completed by The James W. Martin School of Public Policy and Administration.

During the next five meetings, the Committee implemented components of the work plan. Regional meetings were held in Hazard and Madisonville during the months of July and August respectively. During each meeting, the Committee heard testimony from providers, Medicaid recipients, advocacy groups, and on topics regarding pharmaceutical costs, disease management, information technology, strategies used by private insurance markets and Passport Health Plan to contain costs, and waiver opportunities to expand Medicaid coverage to additional groups. A summary of major issues is presented in the following paragraphs.

#### **Pharmacy Costs**

The Committee heard testimony from various groups regarding strategies to control the rising costs of prescription drugs. The Director of Scientific Affairs with the

National Pharmaceutical Council provided testimony regarding disease management programs in Virginia and West Virginia that were implemented as an alternative to a restrictive formulary. A consultant on behalf of Pharmaceutical Manufacturers and Researchers of America presented data on the pharmaceutical use and expenditures of the Kentucky Medicaid program. Testimony regarding the effect of current laws relating to prior authorization and utilization were presented by a member of the College of Pharmacy, University of Kentucky. Information on the role of a pharmacy benefits manager was presented by the Vice-President of Government Relations and the Senior Clinical Director of First Health Services Corporation. Representatives of the Kentucky Retail Federation and the Kentucky Pharmacists Association provided testimony on pharmacists' perspectives about how prescription drug costs could be controlled. The federal Medicaid rebate system was also discussed.

### **Medical Information Technology**

The Committee heard testimony regarding various approaches to health information technology. An overview of the SKYCAP program that is being implemented in Perry and Harlan counties was provided by the Director of SKYCAP, the Deputy Director of the UK Center for Rural Health, and members of the steering committee. The Committee also heard testimony about the benefits of an integrated internet-based health information system in improving the quality of health care and reducing the cost of Medicaid services. This system would include a full range of electronic medical records, claims payment, prescription tracking, eligibility determination, utilization data analysis, and clinical research based upon aggregate data presented by the Associate Dean of Informatics, University of Kentucky. An architectural model of this type of system using the Los Alamos National Laboratory software was presented by the Chief Technology Office of Avatar Systems Development, Inc. The Vice President of Electronic Medical records also provided testimony on the benefits of electronic medical records. Compliance with the federal Health Insurance Portability and Accountability Act (HIPAA) were presented by the Director of the Institute for Bioethics, Health Policy and Law, University of Louisville. The Associate Regional Administrator, Division of Medicaid and State Operations of the Centers for Medicare and Medicaid Services (CMS), testified that CMS can pay up to 90 percent for the development of medical information technology for Medicaid. He explained that the amount depends upon the comprehensiveness of the system.

### **Other States' Initiatives**

The Committee heard testimony regarding the activities of other states to control the cost of Medicaid expenditures. The Director of the Disease Management Initiative with the Florida Medicaid Provider Access System provided an overview of Florida's disease management program for high cost conditions. She also provided an explanation of the supplementary rebate requirement that recently passed the Florida legislature and the agreement with Pfizer to provide case management services instead of a supplementary rebate. The Director of Oregon's Office of Policy, Planning and Performance

Measurement, Department of Human Services, provided testimony regarding Medicaid expansions to additional eligibility groups and Medicaid waivers to provide prescription drug coverage to seniors.

### **Managed Care and Private Insurance Market Strategies**

The Committee heard testimony from the Chief Operating Office of CHA Health regarding strategies that the private insurance market used to control the cost of health care and to control utilization of prescription drugs. The Chief Operating Officer of Passport Health Plan provided the Committee with a summary of strategies they are using to control costs.

### **Federal Issues**

The Associate Regional Administrator, Division of Medicaid and State Operations, Centers for Medicare and Medicaid Services, provided testimony on the new Health Insurance Flexibility and Accountability (HIFA) Demonstration Initiative. This initiative encourages new comprehensive state approaches to increase the number of individuals with health insurance coverage within current-level Medicaid and State Health Insurance Program resources.

### **KenPAC**

The Deputy Director of the Cabinet for Health Services provided an update on the KenPAC program.

## **FUTURE ACTIVITY**

The Committee plans to meet during November and December. The projected agenda will include discussion on the building of an integrated medical information system, which includes the Medicaid program. Agenda items will include testimony from a representative of the Institute of Medicine regarding the impact of information technology on quality of medical care, a representative from Los Alamos National Laboratory, and a representative of New England Healthcare EDI Network. a representative from the Kentucky Congressional Delegation has also been invited to testify regarding federal initiatives to develop health information technology. It is anticipated that the Cabinet for Health Services will provide additional updates on the Medicaid program.



**REPORT OF THE 2001  
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

**Senator Katie Stine, Presiding Chair  
Representative H. “Gippy” Graham, Co-Chair**

Sen. Charlie Borders  
Sen. Brett Guthrie  
Sen. Ernie Harris  
Sen. Paul Herron, Jr.  
Sen. Vernie McGaha  
Sen. Dan Seum  
Sen. Ed Worley

Rep. Adrian Arnold  
Rep. Sheldon Baugh  
Rep. Dwight Butler  
Rep. Jack Coleman  
Rep. Charlie Hoffman  
Rep. Ruth Ann Palumbo  
Rep. Dottie Sims

LRC STAFF: Ginny Wilson, Ph.D., Committee Staff Administrator, Lowell Atchley, Judy Fritz, Greg Hager, Ph.D., Tom Hewlett, Alice Hobson, Joseph Hood, Doug Huddleston, Margaret Hurst, CPA, Dan Jacovitch, Cindy Upton, CPA, and Susan Spoonamore

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

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

Any official in the executive, judicial, or legislative branches of government may request a study. It takes a majority vote of the Committee to determine research topics, scope, methodology, and recommendations. Final reports, although based on staff research and proposals, represent the official opinion of the majority of the Committee. The Committee issues final reports after public deliberations involving agency responses and public input.

### **COMMITTEE ACTIVITY**

During the 2001 Interim, the Legislative Program Review and Investigations Committee held seven meetings through October 2001. With the advent of annual regular sessions, the interim period is much shorter and some of the work undertaken by the Committee was a continuation of work begun earlier.

Throughout this period, the Committee continued program evaluations of Executive Branch contracting for services, the Economic Development Cabinet and East and West Kentucky Corporations, and development of a primer on performance based budgeting. The Committee also continued its review of information relating to the operations of the Child Support Guidelines Commission.

At its first meeting of the 2001 Interim, in April 2001, the Committee voted to authorize a review of the Impact Plus program and a study of the effect of prevailing wage statutes on state construction costs. The Committee also requested additional testimony regarding the Crime Victims' Compensation Fund. At this same meeting, the Committee heard a staff presentation of the draft report on the Child Support Guidelines Commission.

During the May 2001 meeting, the Committee adopted the recommendations from the staff report concerning the Child Support Guidelines Commission and referred the issue to the Interim Judiciary Committee for possible action in the 2002 Regular Session. This meeting also included discussion of a staff report on off-budget accounts in the Commonwealth's accounting system.

The June 2001 meeting of the Committee was held at the Northern Kentucky Convention Center. The Assistant Director of the Civil Division, Attorney General's Office, discussed the open meetings and open records practices of the Child Support Guidelines Commission. Program Review staff then presented a primer on performance-based budgeting, including a description of practices in selected states. The Committee approved the report titled *Performance-Based Budgeting: Concepts and Examples*. A representative of the Office of the Auditor of Public Accounts discussed the current flow of state budget information and the ability of the current system to support performance budgeting. The Director of the Division of Employment Standards, Apprenticeship and Training, Kentucky Labor Cabinet, then provided the Committee with an overview of the process used to determine prevailing wages.

The Committee received a follow-up to a previous report on the Kentucky Infrastructure Authority at its meeting in July 2001. Additionally, the Executive Director of the Crime Victims' Compensation Board responded to questions raised by the Committee concerning how much of the Crime Victims' Compensation Fund has been spent on victims of crime.

At the August 2001 meeting, the Committee hosted an open forum for interested parties to present their views of the effects of prevailing wage requirements on construction contractors, construction employees, and public organizations which fund the projects covered by prevailing wage requirements.

In September 2001, Program Review staff presented the draft report *Executive Branch Contracting for Services: Inconsistent Procedures Limit Accountability and Efficiency*.

The Secretary of the Finance and Administration Cabinet gave his response to the conclusions and recommendations in the draft report on contracting for services at the October 2001 meeting. The Committee then voted to approve the report and its recommendations. There was additional testimony presented to the Committee by the Executive Director and Chair of the Crime Victims' Compensation Board. It was announced during the meeting that the Economic Development study would be delayed until a related case before the Kentucky Supreme Court was decided. The Committee adopted a motion to have the authors of the 1999 study entitled "The Economic Effects on Kentucky of Ohio River Boat Casinos" update that study.

The Committee is scheduled to meet in November and December. The November agenda will include a draft report on the Impact Plus program for children with severe emotional disturbance and an update of a 1999 study of Kentucky's Early Intervention System (also known as First Steps.) The draft staff report on prevailing wage requirements is tentatively scheduled for presentation at the December meeting.

**REPORT OF THE 2001  
TASK FORCE ON SERVICES AND SUPPORTS FOR  
INDIVIDUALS WITH ACQUIRED BRAIN INJURIES**

**Senator Julie Denton, Co-Chair  
Representative Mary Lou Marzian, Co-Chair**

Mary Hass  
Barth Weinberg  
Richard T. Purvis  
Marilyn Duke  
Elizabeth Runyon  
Michael Townsend  
Lisa Rice  
Chad Jackson

Scott Furkin  
Bruce Crump  
James Woodrum  
Margaret Pennington  
Janell Hill  
Kevin Lightle  
Colleen Ryan  
Linda Dickering

LRC STAFF: Murray Wood, Betty Davis, and Rhonda Carter.

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LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



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

**JURISDICTION:** The Task Force was authorized by HCR 67 in the 2001 General Assembly, and is charged with developing recommendations regarding improved data collection on the incidence of acquired brain injuries in Kentucky; strategies that address decriminalization, supported employment, and intensive case management; and reviewing current statutes and administrative regulations to increase access to services and supports.

### **TASK FORCE ACTIVITY**

The Task Force was appointed in October 2001 and had its first meeting on December 12, 2001. At that meeting, the Task Force heard presentations from representatives of the Acquired Brain Injury Services Unit of the Department for Mental Health/Mental Retardation, Cabinet for Health Services; the Brain Injury Trust Fund Board; and the Brain Injury Association of Kentucky. The Task Force agreed to hear from family members from different parts of the state at their second meeting. The second meeting is scheduled for January 25, 2002, 12:00 Noon, in Room 131 of the Capitol Annex.

A representative of the Acquired Brain Injury Services Unit, discussed the definition of acquired brain injury (ABI) as a structural injury that occurs after birth and that is not hereditary or congenital. ABI can be caused by physical trauma (such as automobile accidents), anoxia or hypoxic episodes (lack of oxygen), allergic reactions, toxic substances, or acute medical accidents. There is a distinction between ABI and traumatic brain injury (TBI) in that TBI is external injury only. Data from the Centers for Disease Control include TBI incidents only. Kentucky's program of services and the Brain Injury Trust Fund Board serve individuals with both types of brain injuries.

It is estimated that two million persons nationwide suffer TBI each year and 80,000 of those have a long-term disability. Approximately 5.3 million Americans live with a TBI disability. In comparison, it is estimated that 5.4 individuals have a persistent mental illness and 7.2 million individuals have mental retardation. In Kentucky, it is estimated that over 5,000 persons sustain brain injury each year, with almost 3,400 surviving. The major causes of brain injury are motor vehicle accidents, falls, violent crime, and there is a high association between being intoxicated and sustaining a brain injury. The behavior of some individuals with brain injuries leads to involvement with law enforcement and incarceration.

Persons with brain injury have difficulty driving, working, maintaining relationships, remembering recent events, recognizing safety hazards, controlling their behavior, and living without support. It was emphasized that persons who sustain brain injuries have these difficulties for the rest of their lives. A survey conducted in Kentucky in

2000 indicated that persons with ABI need long term case management, mental health services, transportation assistance, residential options, employment supports, financial assistance, respite care, and access to information.

Current services available include the Acquired Brain Injury Medicaid Waiver program, the Traumatic Brain Injury Trust Fund, and services that are generally available to persons with disabilities. According to the Brain Injury Services Unit, the following needed services are missing: inpatient neurobehavioral services for adults, adult crisis stabilization unites, long-term residential supports, and diversion from jail. It was also reported that data on brain injuries is not uniformly collected, and there is no mechanism for tracking persons with brain injuries following hospitalization.

There are no recommendations at this time. The Task Force report is due July, 2002.

**REPORT OF THE 2000-2001  
BLACKACRE STATE NATURE PRESERVE  
TASK FORCE**

**Senator Tim Shaughnessy, Co-chair  
Representative Steve Riggs, Co-chair**

Sen. Lindy Casebier	Ms. Kathy Matheny
Rep. Tim Feeley	Mr. Dan McCubbin
Ms. Joyce Bender	Mr. David Morgan
Ms. Edith Bingham	Ms. Carol Ann Pike
Mr. Donald Dott	Ms. Gwynne Bryant Potts
Ms. Carol Ann Haddad	Mr. David C. Sparrow
Mr. Richard Jett	Mr. John "Jack" Trawick

LRC STAFF: Hank Marks and Sheri Mahan

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AND THE  
2002 REGULAR SESSION OF THE  
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## **BLACKACRE STATE NATURE PRESERVE TASK FORCE**

**JURISDICTION:** Senate Concurrent Resolution 1 (SCR 1) of the 2001 General Assembly created a task force to "... develop a strategy to protect the character of Blackacre upon which the land's dedication as a nature preserve was based..."

### **TASK FORCE ACTIVITY**

The Task Force was appointed in April, 2001 and met five times. Testimony was received from the Director of Governmental Affairs Jefferson County, the Chairman of the Louisville/Jefferson Planning Commission, and the Planning Manager of the Jefferson County Planning and Development Services. Testimony was received from the Executive Director of the Kentucky Heritage Council, the Executive Director of the Jefferson County Office of Preservation and Archives, and from the officers of the Blackacre Foundation.

#### **Task Force Findings:**

Blackacre is Kentucky's first nature preserve, and is located in a rapidly developing area of Jefferson County. In summary, the Task Force made the following findings:

- There is increasing encroachment by commercial and residential development (in part as a consequence of Senate Concurrent Resolution 105 of the 1990 session of the General Assembly which resulted in the extension of water lines, and in turn, sewer lines, into the areas around Blackacre);
- The donation of Blackacre to the state in 1979, valued at \$466,500 (\$1,026,492 in 2000 dollars) was used as a match for federal dollars to create the first state nature preserves.
- Today, there is a continuing over-dependence on the Blackacre Foundation, Inc. to bear the costs of preservation and expanded program funding of a state property;
- There is an unmet need for increased funding (and sources of funding) for its missions, for maintenance, and for preservation;
- There is a continuing unmet need to better protect and preserve Blackacre and the Historic District;
- More can be done to meet the multiple purposes of the Blackacre mission; and
- There is an inadequate visibility and recognition of Blackacre and the Tyler Settlement Historic District as a county and state resource (i.e., a historic, cultural, and natural treasure).

#### **Task Force Recommendations:**

The Task Force made the following recommendations:

**Recommendation 1: Establish a Capital Campaign.** The Task Force recommends, as its first priority, that immediate action regarding properties identified by orange-shaded areas (numbers 20a, 31, 32, 4, 5, 8, 11, 11a, 11b, and 12) on the property map of the Report (Map 1 of Appendix 1) be taken and that they be considered as the priorities for property purchase or for easement purchases in order to buffer Blackacre State Nature Preserve and protect the Tyler Settlement Historic District from further encroachment by residential and commercial development.

**Recommendation 2: Purchase Properties and Easements:** In order continue the efforts of the Task Force, to better preserve and protect Blackacre, increase public awareness of Blackacre and the Historic District, increase awareness of the value of Kentucky's state nature preserves, supplement resources of the Blackacre Foundation as the primary support for the Preserve, and to accomplish Recommendations 1, and 6, 7, and 8 below, the Task Force recommends that that a broad-based capital campaign be established, involving all elements of the community, city and county government agencies, state and local businesses, state government agencies and funds, private foundations, and federal funding programs. Seed money for this initiative should be provided for with an appropriation from the 2002 General Assembly in the form of a matching grant.

**Recommendation 3: Revise Cornerstone 2020 to Create a “Special District”:** The Task force recommends that Jefferson County revise the Cornerstone 2020 plan to designate a significant portion of the Tyler Settlement Historic District (represented on Map 1 of Appendix 1) as "Special District" and use other available and appropriate "tools" provided by the Land Development Code and Cornerstone 2020 to implement land use controls which will protect Blackacre and the Tyler Settlement Historic District from further encroachment and environmental harm resulting from commercial and residential development.

**Recommendation 4: Designate Roads Surrounding Blackacre as “Scenic Corridor”:** The Task Force recommends that Jefferson County designate the roads (or portions of roads) surrounding Blackacre (i.e., Taylorsville Road, Tucker Station Road, Rehl Road, and Blankenbaker Road) as "scenic corridor", and that the Kentucky Transportation Cabinet designate these roads as "scenic highway".

**Recommendation 5: Continue JCPS Environmental Programs:** The Task Force commends the Jefferson County Board of Education (the JCPS) for its environmental education and nature interpretation programs and recommends that these continue.

**Recommendation 6: Continue and Increase Support for Blackacre Foundation:** The Task Force commends the Blackacre Foundation, Inc. for its stewardship of the Preserve and for its efforts to open this state property to the general public, and recommends that the Foundation be provided with increased support for its

efforts to protect and preserve Blackacre, and in its continuing efforts to extend to the public a greater access to this state treasure.

**Recommendation 7: Recognize and Realize multiple program objectives at Blackacre:** The Task Force recommends an increase in funding, and sustained efforts for programs relating to Blackacre's farm heritage, historic interpretation, and preservation of historic structures.

**Recommendation 8: Seek Grant and Other Funding Sources:** The Task Force recommends that the partners to the Memorandum of Agreement seek appropriate and eligible applicants in order to apply for grant funds from the Kentucky Heritage Council, to seek funds from the Heritage Land Conservation Fund, and that other similar sources of funding be explored with agencies of state and local government as a way to support Blackacre and the Historic District.



**REPORT OF THE 2001  
ADVISORY COMMITTEE ON  
CITY AND COUNTY RELATIONS**

**Sen. Dan Seum, Co-Chair  
Rep. John Adams, Co-Chair**

Senator Larry Saunders  
Judge Darrell Beshears  
Mayor Bradley Collins  
Magistrate Bill Drury  
Judge Richard Frymire  
Commissioner Jody Lassiter  
Magistrate Jim McClanahan  
Kirby Ramsey

Representative Charlie Hoffman  
Judge Mark Brown  
Mayor Karen Cunningham  
Mayor David Eaton  
Mayor Tom Holocher  
Secretary Dana Mayton  
Mayor Bill Nighbert  
Judge Larry Whitaker

LRC STAFF: Jamie Franklin, Joe Pinczewski-Lee, Alice Carter, and Cheryl Walters

**PRESENTED TO THE  
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2002 SESSION OF THE  
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## **ADVISORY COMMITTEE ON CITY AND COUNTY RELATIONS**

**JURISDICTION:** As required by 00 SB 163, the Advisory Committee on City and County Relations shall examine the issues and problems facing the Commonwealth's cities and counties. These issues and problems include, but are not limited to:

1. Overlapping, inefficient service delivery;
2. Identification of the principal beneficiaries of local government services;
3. Allocation of taxing authority; and
4. Identification of various city and county tax bases.

The Advisory Committee on City and County Relations may also make specific recommendations concerning, but not limited to, the following:

1. Recommendations for allocating future service responsibilities between cities and counties; and
2. Recommendations regarding the allocation of taxing authority between cities and counties, based on assigned service responsibilities.

### **ACTIVITY**

The Advisory Committee on City and County Relations met five (5) times during the 2001 interim period. During these meetings the members of the committee primarily focused on the development of a legislative proposal relating to the coordination of local government finance. To develop this proposal the members of the Committee met with and relied on the advice of representatives of the Kentucky Association of Counties, the Kentucky League of Cities, the Kentucky County Judge/ Executive Association, the Kentucky Magistrates and Commissioners Association, the Kentucky Council of Area Development Districts, and the Department for Local Government. Because of the later than expected starting date for the activities of the Committee, the representatives of these groups had begun meeting earlier to develop a proposal to present to the Committee once it began its activities.

At the first meeting, members of the Committee reviewed the purposes for the formation of the group. They were reminded that 00 SB 163, which not only authorized this Committee, also created a moratorium on the crediting of occupational license fees and insurance premium taxes between cities and counties for a two (2) year period which will expire in 2002. It also preserved the taxing status relating to occupational license fees of those counties whose populations exceeded 30,000 after the 2000 Census. The representatives of the local government interest groups told the Committee that their intent was to find a common ground on which cities and counties could work together to 1) eliminate overlapping and inefficient service provision, 2) find an equitable method of distribution for the allocation of local government revenues arising from occupational

license fees and insurance premium taxes, and 3) identify the various revenue sources available to local governments.

At its remaining meetings, the Committee continued to develop a legislative proposal which would permit the creation of tax base coordination agreements between local governments that would assist in the resolution of conflicts which arise from the collection and levy of occupational license fees and insurance premium taxes by cities and counties. In between each of the monthly Committee meetings, the representatives of the local government interest groups were also meeting to refine their recommendations for inclusion in the legislative proposal.

At its final meeting, the Committee gave approval to 02 BR 312 - An Act relating to the coordination of local government finance. Members also heard testimony from the county and city officials from the six (6) counties which exceeded 30,000 in population after the 2000 Census. These areas would have been severely affected financially if the counties had had to "roll back" their occupational license fee rates in 2000 as a result of their growth in population. The passage of 00 SB 163 had prevented that from happening. In order to prevent any adverse affects befalling these communities again, the Committee wanted to hear the comments of these officials relating to the legislative proposal being considered.

Before the final approval of its legislative proposal, the Committee considered 12 amendments to the proposal which had been submitted by members prior to the meeting. All of the proposed amendments were rejected. After discussion and consideration of the amendments, 00 BR 312 was adopted by a vote of 15 -1. With this action, the Committee concluded its work.

Other issues which were raised during Committee meetings, but not discussed due to a lack of time, included the following:

- A review of "HB 44" and how it is currently affecting local governments.
- An exploration and consideration of other potential revenue generating mechanisms for local governments.
- A review of the current major expenditure items affecting local governments which would include the funding of local jails.
- The possibility of using funding formulas for the distribution of local revenues which could be based on level of services provided, size of population served, amount of taxes levied, etc..
- A revamping of the collection and distribution methods used for occupational license fees and insurance premium taxes levied by local governments.

**REPORT OF THE 2001  
SPECIAL TASK FORCE ON ELECTRICITY RESTRUCTURING**

**Senator Ernie Harris, Co-chair  
Representative Larry Clark, Co-chair**

Sen. Charlie Borders  
Sen. David Boswell  
Sen. Marshall Long  
Sen. Elizabeth Tori  
Rep. James Gooch  
Rep. Marie Rader  
Rep. Charlie Walton  
Rep. Mike Weaver

Sec. James Bickford  
Dir. John Davies  
Mr. Bob Gray  
Dr. Merle Hackbart  
Sec. Mike Haydon  
Comm. Martin Huelsmann  
Mr. Jody Lassiter  
Ms. Mary Lassiter  
Sec. Marvin (Gene) Strong

LRC STAFF: Tanya Monsanto, Dan Risch, D. Todd Littlefield, and Sheri Mahan

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AND THE  
2002 REGULAR SESSION OF THE  
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## **SPECIAL TASK FORCE ON ELECTRICITY RESTRUCTURING**

**JURISDICTION:** The Special Task Force on Electricity Restructuring is charged with monitoring developments related to electricity restructuring.

### **ACTIVITY**

Senate Joint Resolution 107 reauthorized the Special Task Force on Electricity Restructuring. The task force was originally set up by HJR 95 passed during the 1998 Regular Session of the General Assembly. SJR 107 underscored the recommendation to continue to monitor restructuring activities in other states which was submitted by the Restructuring Task force to the Governor and the LRC in December 1999.

The Task Force met four times between September 25, 2000, and October 22, 2001. No legislation to restructure the electric utility industry was considered during that time, and no recommendations have been made by the Task Force for legislative action by the 2002 General Assembly.

The first meeting provided an overview of electricity restructuring and an update on the activities of the 1998 Task Force. LRC staff explained what restructuring is and discussed the findings and recommendations submitted by the task force to the Governor and the LRC in December 1999. The task force also considered legislation passed during the 2000 Regular Session that related to electricity restructuring. Public Service Commission staff and the principal sponsor discussed House Bill 897, which was passed by the 2000 General Assembly. This bill was designed to prevent cross-subsidization between affiliates of electric utilities and the electric utility itself. The presentation included a discussion of the legislative history of HB 897 and an explanation of how the Public Service Commission would implement the provisions of the bill.

The second meeting was devoted to updating the Task Force on restructuring activities in other states. Staff from Edison Electric Institute (EEI) described restructuring throughout the United States. The presentation covered four principal topics: (1) why some states have chosen to restructure; (2) basic goals of restructuring; (3) several factors that aide in the creation of a healthy retail market for electricity; and (4) why restructuring failed in California. The Task Force also heard from two segments of the electric utility industry concerning their positions on restructuring in Kentucky. The executive Director for the Kentucky Association of Electric Cooperatives stated the cooperative position to study restructuring in other jurisdictions prior to undertaking efforts in Kentucky. A representative from the Municipal Electric Power Association of Kentucky (MEPAK) then discussed MEPAK's position on electricity restructuring. He stated that the municipal electric utilities are neutral on restructuring.

The third meeting of the Task Force was devoted to examining the state of Kentucky's transmission system. Staff from the National Conference of State Legislatures described how transmission is being affected by restructuring activities throughout the nation. He explained who has jurisdiction over transmission and why a stable transmission system is necessary for transition to competitive markets for electricity. Representatives from the Midwest Independent System Operators (MISO) provided an update on the formation of a regional transmission organization that will oversee the reliability of the regional transmission system. Then the executive director of the Public Service Commission discussed the Commission's concerns about the adequacy of the transmission system in Kentucky.

The final meeting of the Task Force consisted of tour of the wholesale market trading floor and the load control center at Cincinnati Gas and Electric (CINergy). The market trading floor is designed to promote the purchase and trade of competitive wholesale electric power. The load control center is designed to maintain the reliability of electric power within CINergy's service territory. The tour took place in Florence, Kentucky, and in Cincinnati, Ohio.

**REPORT OF THE 2001  
TASK FORCE ON QUALITY LONG-TERM CARE**

**Senator Richie Sanders, Co-Chair  
Representative Harry Moberly, Co-Chair**

Sen. Julie Denton  
Rep. Mike Weaver  
Patrick Bruenderman  
Bob Gray  
Karen Hinkle  
John Mays  
Mack Morgan  
Ruth Morgan  
Brenda Rice  
Jerry Rogers  
Laurel True  
Jerry Whitley  
John Wright

Rep. Tom Burch  
Sharon Branham  
David Burgio  
Ellen Hesem  
Jenny Mateyoke  
Bill Montgomery  
Marcia Morgan  
Joyce Rader  
Karen Robinson  
John Snyder  
Bernie Vonderheide  
Ed Wilson

LRC Staff: Robert Jenkins, CSA; Barbara Baker, Barry Boardman, Eric Clark,  
and Gina Rigsby

**PRESENTED TO THE  
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AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **TASK FORCE ON QUALITY LONG-TERM CARE**

**JURISDICTION:** Authorized by SCR 39 in the 2000 General Assembly, the Task Force on Quality Long-Term Care met monthly from April through October, 2001. The Task Force was charged with studying methods to promote and enhance the quality of care provided in Kentucky's long-term care facilities as well as in-home and community-based services, including but not limited to the following:

- (1) Wage pass through programs to increase staff salaries;
- (2) Financial incentives for facilities exceeding quality standards;
- (3) Linkage of reimbursement to staffing levels;
- (4) Provision of additional training for facility staff;
- (5) Mandatory staff-to-patient ratios;
- (6) Assisted living facilities and other nonmedical socially oriented living arrangements in the community; and
- (7) Noninstitutional services delivered in the home of the client including, but not limited to, the provision of home health, meals, housekeeping, and assistance with personal care.

### **TASK FORCE ACTIVITY**

To facilitate discussion of the broad nature of its jurisdiction, the Task Force divided into two work groups, the first to consider the medical, mostly institutional, issues, and the second to consider the nonmedical, mostly home and community-based issues. The work groups met monthly and reported at each meeting of the full Task Force.

Nationally recognized experts testified about Kentucky's changing demographics and about the efforts that other states are undertaking to address the challenges of long-term care.

#### **Background**

The Director of the Kentucky Data Center testified that there will be a significant growth in the 65 and older population in Kentucky in the next decade. People are living longer, and most of the state's current growth has been in the 44 to 65 age range. As more people live longer, there will be more relatives in their fifties and sixties caring for them who will need to work longer to sustain the necessary income. Living arrangements of the elderly may be influenced by their disability status and need for assistance. Women are living longer and more are living alone.

In the early 1900s, only one out of ten people lived beyond the age of sixty-five, while in 2000, the rate became eight out of ten. There will be fewer caregivers for the elderly in the future due to the aging of the workforce and the increasing numbers of the

elderly. Between 2010 and 2030, the American population workforce is expected to decline by ten percent. Between 2010 and 2030, *all* growth in Kentucky will be in the sixty-five and older group. The average household of the future may have more older parents and fewer children to take care of them.

A health policy consultant with the National Conference of State Legislatures testified that the long-term care industry is highly regulated, and there is much concern about the availability of competent health professionals who are trained to provide long-term care services. Nationwide, there is a shortage of frontline workers, and the shortage will worsen. These workers historically make low wages, lack benefits, lack training, and have little opportunity for career advancement. Thirty-six states have mandatory staff-to-patient ratios, and there are federal standards for R.N.s and L.P.N.s, but not for nurses' aides. Approximately 3.59 hours of care are spent per day per resident in Kentucky nursing homes, and Kentucky's staffing ratio is relatively high compared to other states in the southern United States.

Forty-two percent of older people who become frail and unable to care for themselves will be taken care of by families and the government. Citizens believe government support for medical care and long-term care is important, particularly for basic medical care, prescription drug coverage, nursing home care, transportation, housekeeping, cooking, and with general assisted living. Despite the need for services, many people are not familiar with available in-home services, adult day care, Alzheimer's respite, long-term care ombudsman, personal care attendants, senior community service employment, or senior health insurance counseling.

A survey of Kentuckians by the Long Term Policy Research Center found that 1) Kentuckians are retiring earlier than planned, most often due to health problems; 2) financing medical care for older Kentuckians will be a significant challenge because many expect to rely heavily on Medicare; 3) most will find their standard of living about the same in retirement, but for those who rely on Social Security, retirement is likely to mark a change for the worse; 4) the future viability of Social Security and employer pension plans will have a significant effect on income security in Kentucky; 5) the health status of older Kentuckians is poorer than in most other states, so long-term care needs may be more acute; 6) most older citizens believe government support is important for a range of programs and services for older citizens, including long-term care; 7) most older citizens believe that these services should be linked to financial need; and 8) most older citizens believe that both government and family should assume responsibility for frail elders.

The bulk of long-term care is rendered through family caregiving. One out of every four households is involved in family caregiving for an elderly and/or disabled relative. Many states have caregiver programs that provide information, referral services, and case management, and there has been an increase in respite care services. Some states provide tax credits or deductions for family caregivers and pay families to provide care for a family member.

Medicaid is the major public payor of long-term care services. Seventy-seven and one-half percent (\$638 million) of Medicaid funds are used for institutional care, while home and community based services use 22.5 percent (\$186 million). Kentucky is ranked third in the nation for home health expenditures. The national trend recognizes extreme growth for home and community-based services. In light of the Medicaid shortfall in the 2000-2001 biennium, it has been suggested that Kentucky re-visit Medicaid payment of long-term care services to determine if people can be served in a different manner and at less cost.

There are 285 nursing facility Medicaid providers in Kentucky that provide services to 21,951 recipients. Total expenditures for Fiscal Year 2001 are \$506,565,346. There are ten ICF/MR Medicaid providers who serve 1,208 participants, with total expenditures for Fiscal Year 2001 at \$83,378,852.

In Kentucky, Medicaid-covered services includes medical care provided in a licensed nursing facility. The nursing facility may be a freestanding institution, a hospital-based institution, or a nursing facility that offers specialized services for ventilator dependent patients, brain injury patients, or pediatric patients.

Medicaid also covers services for patients in an Intermediate Care Facility for the Mentally Retarded (ICF/MR). Covered services include room and board, nursing services, medical and surgical supplies, laundry services, and personal items routinely provided by the facility.

The following services are also included if ordered by a physician: prescription drugs, x-rays, physical therapy, speech therapy, occupational therapy, laboratory services, oxygen, and related oxygen supplies. Physician-ordered services are reimbursed separately from the nursing facility on a per diem rate.

Kentucky has six waiver programs in its Medicaid program that impact long-term care services: Home and Community-Based Waiver, Community Living Waiver (Mental Retardation/Developmental Disabilities), Model II Waiver (ventilator dependent), Brain Injury Waiver, Personal Care Assistance Waiver, and Home Care Waiver. No people are being served in the Personal Care Assistance or Home Care Waiver programs. Home and community-based services also are provided through state funds in the Personal Care Assistance, Home Care, and Supported Living programs. In summary, approximately twenty-five percent of the Medicaid budget covers approximately 22,000 to 24,000 people who receive long-term care services through the various waiver programs.

## **Recommendations**

Subject to the availability of sufficient funding during the 2002-2004 biennium, the Task Force adopted the following recommendations from the Work Group for Issues 1-5:

1. Upgrade the eleven part-time nursing home ombudsmen positions to full-time positions in the Pennyrite, Lake Cumberland, Lincoln Trail, Purchase, FIVCO, Buffalo Trace, Kentucky River, Gateway, Northern Kentucky, Green River, and Big Sandy Area Development Districts, and provide for a minimum of one full-time ombudsman position for every 2,000 nursing home residents.
2. The Long Term Care Coordinating Council, authorized under KRS 216.583 but not funded, should be reconstituted and fulfill its duties as mandated.
3. The Cabinet for Health Services should re-evaluate and study the proposed Medicaid reimbursement system that uses the Minimum Data Set (MDS) and Resource Utilization Groups (RUGS), and should develop a reimbursement system that fairly pays providers based upon patient care needs and the intensity of services that are delivered. Additional study should also be given to the issue of caring for persons whose behavioral symptoms cannot be safely managed in the normal nursing home setting, with consideration given to the plausibility of providing more appropriate placement for affected persons, such as the establishment of special behavior units, and the possibility of providing additional training and/or resources to long-term care facilities that commit extraordinary resources to care for these persons.
4. Kentucky should utilize the civil monetary penalties (CMPs), collected through the fine process for regulatory violations, to establish grants and expenditures for improvement of quality long-term care for nursing home residents. The state should provide initial funds for facilities that are interested in implementing programs such as the Eden Alternative, provide training to the volunteer ombudsman program, and provide additional staff training to poor-performing facilities, as determined by past survey histories of facilities.
5. Kentucky should fully fund its price-based reimbursement system for Medicaid beneficiaries who receive nursing facility services.

Subject to the availability of sufficient funding during the 2002-2004 biennium, the Task Force adopted the following recommendations from the Work Group for Issues 6-7:

1. An overall goal of establishing a public policy for long-term care in Kentucky should be established, giving individuals a right to live in the community in the place of their choice, with a right to be educated about their rights and choices. Individuals have a right to a timely evaluation of their ability to live in or return to the community, have the right to appropriate, community-based services, the right to a high quality of care, and the right to funding mechanisms that support them whether they are at home or in the community.
2. The Cabinet for Health Services should conduct a comprehensive, statewide educational effort to inform the affected individuals and their families, elected officials, other policymakers, and the general public regarding the rights of individuals with

disabilities and the frail elderly to live in the community, in the home, and in the least restrictive environment of their choice.

3. The Cabinet for Health Services should make available Community Living Assessment Teams to provide, upon request of individuals and their families, an appropriate and timely evaluation of an institutionalized person's ability to return to a home of choice in the community, or an appropriate and timely evaluation of a person currently living in the community who desires to delay, prevent, or divert his or her institutionalization, if appropriate services are available, funding is economically feasible, and the individual or his or her family asks for the community services.
4. The 2002 General Assembly should approve a community services ombudsman program providing a full-time paid ombudsman in each Area Agency on Aging.
5. The 2002 General Assembly should direct the Cabinet for Health Services and the Cabinet for Families and Children to develop and implement a pilot integrated care management system in two Area Development Districts by January 1, 2003.
6. The 2002 General Assembly should support the development of the "Aging Client Care Management and Record System" in the Cabinet for Health Services that links health and social service providers. This system may be implemented first as a pilot project in two Area Development Districts.
7. The 2002 General Assembly should authorize the transfer of Medicaid funds currently allocated for nursing home care to home and community based services and direct the Cabinet for Health Services to develop a pilot "person centered/directed funding program" to permit up to 500 persons with disabilities and the frail elderly currently residing in long-term care facilities to return, at their option, to the community and a home and least restrictive environment of their choice.
8. The 2002 General Assembly should authorize a Family Caregiver Support Program in the Cabinet for Health Services for the benefit of caregivers of physically and mentally impaired adults in need of long-term care services.
9. The 2002 General Assembly should provide additional funds for expansion of the Personal Care Assistance Program, Cabinet for Health Services, to serve 500 more persons with disabilities during FY 02-04.
10. The 2002 General Assembly should provide additional funds for expansion of the Home Care Program, Cabinet for Health Services, to serve 2,800 additional older persons during FY 02-04.



**REPORT OF THE 2001  
TASK FORCE ON SENIOR CITIZENS  
AND THE WORKFORCE**

**MEMBERSHIP**

Sen. Dan Seum, Co-Chair  
Rep. Susan Westrom, Co-Chair

Sen. Daniel Mongiardo  
Sen. Richard Roeding  
Rep. Jim Thompson  
Rep. Mike Weaver  
Dr. Keith Bird  
Ms. Bonnie Bolinger  
Mr. Sam Dillard  
Mr. John B. Hatfield  
Ms. Margaret Keightley  
Ms. Helen Ryan Kindler  
Mr. William Londrigan  
Mayor Paul Osborne  
Mr. Ray Roundtree  
Dr. Graham Rowles  
Mr. George R. Siemens, Jr.  
Mr. Robert Stratton

LRC STAFF: Clint Newman, Alisha Miller, Mike Bennett, and Wanda Gay

**PRESENTED TO THE  
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AND THE  
2002 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **TASK FORCE ON SENIOR CITIZENS AND THE WORKFORCE**

**JURISDICTION:** The Task Force was directed to: (1) Identify the age characteristics of Kentucky's present and future workforce; (2) Examine the role of senior citizens in the state's present and future workforce; (3) Identify accommodations and incentives necessary to attract and retain senior citizens in the workforce; (4) Determine the needs of senior citizens to remain productive members of the workforce; (5) Evaluate the ability of existing programs to attract and retain senior citizens in the workforce including those intended to provide necessary education to qualify for entry or retention in the workforce; (6) Recommend improvements in existing programs and the creation of new programs addressing senior citizens and the workforce, including programs through which prospective employers can identify and access qualified senior citizens; and (7) Promote public awareness of the value of senior citizens in the workforce and initiate dialogue between citizens and policymakers in this regard.

### **COMMITTEE ACTIVITY**

The Task Force on Senior Citizens and the Workforce was created during the 2000 Regular Session of the General Assembly by HR 73. The Task Force is comprised of 18 members, six appointed by the Governor, three legislative members appointed by the President of the Senate, three legislative members appointed by the Speaker of the House of Representatives, and six at-large members appointed by the Legislative Research Commission. The Task Force has met twice during the 2001 Interim, and plans on having a third meeting in November in conjunction with the Governor's Conference on Aging.

At its first meeting on September 12, the members reviewed the duties of the Task Force as specified in 2000 HR 73, and they were presented with several relevant topics that would be considered in the future. The Task Force members introduced and gave background information on themselves.

The featured speaker was the Director of the Kentucky State Data Center, University of Louisville, Urban Studies Institute. The Director believes that the biggest issue confronting society in Kentucky is the aging population of those between 61 and 100 years of age. Although there will not be much growth in the young senior population for five to ten years, there will be a lot of growth in our population of seniors age 75 and older. The "boomer" population will begin to get old after 2010. In the future, Kentucky's population "pyramid" will consist of our mature, senior population at the bottom, supporting younger, smaller age groups tapering toward the top. A new age group, persons 81 to 100, will be at the top. It is predicted that older Kentuckians are likely to run out of money before they run out of life.

The Director said Kentucky must attract and keep a mature workforce and not try to attract a young workforce because the young workforce is simply not there at this time. Seniors are well suited for tomorrow's jobs in retail trade and services, jobs that require

brain-power instead of muscle-power. Senior citizens will need to be retrained in order to work longer.

It was announced that at each meeting, a “spectacular” citizen, a senior who has made an extraordinary contribution to Kentucky, would be honored.

The second meeting was held on September 12. The Executive Director of the Kentucky Long Term Policy Research Center presented the results of a survey entitled “Planning for the Future, a Collaborative Project Between the Kentucky Long Term Policy Research Center, the University of Kentucky Sanders-Brown Center for Aging, and the University of Kentucky Survey Research Center”. The focus of the survey was to determine how older Kentuckians plan to meet their financial and health care needs in retirement, and how well they have planned for those needs.

Thirty-seven percent of survey respondents were not confident that the Social Security System would continue to provide benefits of at least equal value to benefits received today. Over a quarter of current Kentucky retirees indicated that their standard of living is worse than before retirement. Future retirees have saved for retirement better than current retirees did, but over a quarter of future retirees have not saved for retirement. Forty-four percent have saved less than \$25,000 for retirement, and eighteen percent have no retirement savings. Over half of survey respondents think it will be necessary to work in retirement to make ends meet, and forty-three percent envision working beyond retirement to keep health insurance or other benefits.

Healthcare in retirement was addressed. Forty-three percent of respondents see employer provided health care as a major source, but over three-fourths said that Medicare will be a major source of health care. For current retirees, the monthly out-of-pocket spending for healthcare is approximately \$250 per month. Over half of current retirees say that they cannot afford these expenses.

The Executive Director of the Office of Aging Services gave an overview of the programs offered to seniors by his office. He said that his office plans to present an all inclusive plan for the future that involves financial planning, planning for long term care, where seniors live, what is needed in their homes, and the kinds of activities seniors will be participating in during those many more years of life after retirement. He said that his office assists seniors by providing services to them and by enabling support that the workforce currently needs in order for seniors to keep working. His office provides services to 145,000 elderly Kentuckians.

The coordinator of the Title V Senior Employment Program explained that the program provides part-time employment in community service activities for unemployed, low-income persons who are 55 years or older and who have poor employment prospects. Enrollees work 20 hours per week at \$5.51 per hour and receive training in skills that will make them more employable. The agency has 233 slots each year and is required to place

twenty percent of that number into unsubsidized employment each year. Enrollees can stay in the program a maximum of two years.

A third meeting of the Task Force on Senior Citizens and the Workforce is planned in November in conjunction with the Governor's Conference on Aging. A Kentucky business that has been successful in employing seniors is scheduled to make a presentation.

Since the Task Force did not have sufficient time to complete its work, a resolution will be offered in the 2002 Session to extend the life of the Task Force for another interim.



**REPORT OF THE 2001  
TOBACCO TASK FORCE**

**Sen. Vernie McGaha, Chair  
Rep. Jim Bruce, VC**

Rep. John Adams  
Rep. Royce Adams  
Rep. Woody Allen  
Rep. Adrian Arnold  
Rep. Eddie Ballard  
Rep. Sheldon Baugh  
Rep. Carolyn Belcher  
Rep. Larry Belcher  
Sen. Charlie Borders  
Sen. David Boswell  
Sen. Tom Buford  
Rep. Denver Butler  
Rep. Dwight Butler  
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Rep. Robert Damron  
Rep. Mike Denham  
Rep. Jim Gooch  
Sen. Paul Herron, Jr.

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Sen. Bob Jackson  
Sen. Alice Forgy Kerr  
Sen. Marshall Long  
Rep. Tom McKee  
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Sen. Joey Pendleton  
Rep. Tanya Pullin  
Rep. Marie Rader  
Rep. Jon David Reinhardt  
Sen. Richard Sanders  
Rep. John Will Stacy  
Rep. Jim Stewart  
Rep. Gary Tapp  
Rep. Roger Thomas  
Rep. Tommy Turner  
Rep. Mike Weaver  
Rep. Robin Webb  
Rep. Brent Yonts

LRC STAFF: Brad Wellons and Kelly Blevins.

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## **TOBACCO TASK FORCE**

**JURISDICTION:** Pursuant to 1998 SCR 3 the Tobacco Task Force is directed to address problems relating to the tobacco industry and report findings to the 2000 General Assembly. Additionally, 1998 HCR 14 directed the Tobacco Task Force to develop a strategy for the state to enter into a tobacco price support program with other states. The Task Force was reestablished by 2000 SCR 15 and HCR 45, and will report its findings to the 2002 General Assembly. Also the 2000 SB 49 (2000 Ky. Acts ch. 533, sec. 3) called for a study of tobacco contracting by the Task Force, specifically focusing on potential effects on small tobacco farmers, farm income, and how to support the federal tobacco price support program.

### **ACTIVITY**

During the 2001 Interim, the Tobacco Task Force held three meetings, two prior to November 1, 2001, and one scheduled for the opening day of tobacco auction sales on November 13, 2001.

Major topics considered by the Task Force included finalizing the tobacco contracting report; updates on the burley tobacco quota situation for 2002; changes in the federal tobacco program implemented in 2001; testimony from the Governor's Office of Agricultural Policy on the status of Phase II applications; a summary of the activities of the Agricultural Development Board; the annual report of the Tobacco and Health Research Institute (THRI); testimony from THRI and Large Scale Biology Corporation about tobacco research projects, biotechnology in tobacco, and tobacco molecular farming efforts in Kentucky; an update on the current state of burley auction warehouses in Kentucky and the federal burley tobacco auction program; a newly adopted Agricultural Diversification program for local county councils to allow tobacco farmers to diversify; and other programs of the Agricultural Development Board that are designed to assist individual tobacco farmers and tobacco dependent communities; an update on the activities of the Kentucky Center for Development and Entrepreneurship; and an update from some local county councils of the Agricultural Development Board.

The Tobacco Task Force will hold a meeting on November 13, 2001, for opening day of burley tobacco auction sales in Springfield. The Task Force traditionally travels to a warehouse and holds a meeting at various burley tobacco auction markets every year. The Task Force will hear testimony regarding the Agricultural Development Board activities relating to agricultural diversification and tobacco, an update on the activities of the Kentucky Center for Development and Entrepreneurship, and an update from some local county councils.

## **Tobacco Contracting**

In the 2000 Session, the General Assembly passed SB 49 (2000 Ky. Acts ch. 533, sec. 3), which called for a study of tobacco contracting, specifically focusing on potential effects on small tobacco farmers, farm income, and how to support the federal tobacco price support program.

The Task Force requested and took testimony from tobacco companies, tobacco groups, farmers, and other organizations and individuals directly involved regarding tobacco contracting. The Task Force also examined proposed frameworks for state regulation of tobacco contracting and examination of other states' approaches to tobacco contracting. The Task Force then heard testimony regarding agricultural contracting and several approaches to how and why states might regulate contracting in agriculture, including the National Association of State Attorneys General model legislation called the "Producer Protection Act." Finally, the Task Force coordinated and monitored work with other states to formulate a coordinated approach to tobacco contracting through the Southern Legislative Conference and the National Conference of State Legislatures.

The Task Force found that contract sales of burley tobacco beltwide totaled 87.5 million pounds, 26 percent of the total volume sold. Beltwide auction sales of burley tobacco were 245.9 million pounds, just over 74 percent of total volume sold; 223.7 million pounds were sold to companies, 19.4 million to the burley cooperatives and 2.8 million pounds in other sales. Preliminary indications are that all of the major cigarette manufacturers, many of the smaller manufacturers and most of the tobacco leaf dealers will contract for the 2001 growing season. As of August 2001, 63 percent of the producers beltwide, have indicated that they will market their tobacco via direct contract for the 2001 season, 61 percent in Kentucky. However, there are other signs that producers will still support the quota and auction system and thus take a lot of tobacco to the auction market. This will force the companies to still purchase a significant amount of burley at the auction market.

It appears now that at least for the short term that both the auction and contracting marketing systems can and will coexist. However, there are still concerns about the long-term viability of the auction system and the tobacco program as a whole because of the effects of contracting.

The full results of this study are found in the LRC Research Report 301, *Tobacco Contracting in Burley Tobacco: The Kentucky Tobacco Task Force Study of Tobacco Contracting*. This report was finalized in the September meeting of the Tobacco Task Force and is available from the LRC publications room.

**REPORT OF THE 2001  
SPECIAL SUBCOMMITTEE ON  
VETERANS' AFFAIRS**

**Rep. Eddie Ballard, Chairman  
Sen. Dan Seum, VC**

Sen. Charlie Borders  
Sen. David Boswell  
Sen. Brett Guthrie  
Sen. Paul Herron, Jr.  
Sen. Ed Miller  
Sen. Virgil Moore  
Sen. Albert Robinson  
Sen. Larry Saunders  
Sen. Robert Stivers  
Sen. Elizabeth Tori  
Sen. Jack Westwood  
Rep. John Adams  
Rep. Royce Adams  
Rep. Carolyn Belcher  
Rep. James Bruce

Rep. Mike Cherry  
Rep. Perry Clark  
Rep. Robert Damron  
Rep. J. R. Gray  
Rep. Jodie Haydon  
Rep. Charles Hoffman  
Rep. Jimmie Lee  
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Rep. Jon David Reinhardt  
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Rep. Charles Siler  
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LRC STAFF: Mike Bennett, Clint Newman, and Rhonda Carter

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## **SPECIAL SUBCOMMITTEE ON VETERANS' AFFAIRS**

**JURISDICTION:** The Special Subcommittee on Veterans' Affairs was established by HCR 104 of the 1984 General Assembly. Its jurisdiction is to gather information, set priorities, act as a sounding board for all veterans throughout the state, and forward recommendations to the General Assembly.

### **SUBCOMMITTEE ACTIVITY**

During the 2001 Interim, the Special Subcommittee on Veterans' Affairs held two meetings prior to November 1, 2001.

The Special Subcommittee on Veterans' Affairs met in September and October during the interim, with an additional meeting taking place in November subsequent to this report. The primary focus of the subcommittee during the interim was the construction of the two new veterans' nursing homes which are nearing completion in Hanson and Hazard. Each meeting also included updates from the Kentucky Department of Veterans' Affairs and the Joint Executive Council of Veterans' Organizations. During this interim, the subcommittee also heard from representatives of the Veterans' Administration Medical Center in Lexington.

Although no formal action was taken on bill requests prefiled by members of the subcommittee for the 2002 Regular Session, the subcommittee discussed BR 280, which would establish a Kentucky Military Heritage Commission to protect and preserve items and artifacts with special military significance.

At its September 28, 2001, meeting, the subcommittee adopted a Resolution to be forwarded to the Kentucky Congressional Delegation and the President of the United States supporting the President's response to the acts of war perpetrated against the United States on September 11, 2001. The Commissioner of the Kentucky Department of Veterans' Affairs and the Executive Director of the Office of Kentucky Veterans' Centers reported on the construction of the new veterans' nursing homes in Hanson and Hazard and also addressed budget concerns related to reductions in the nursing home budgets as a result of the Governor's budget reduction plan. A report was also given on the ten year anniversary of the Thomson-Hood Veterans' center located in Wilmore. The Public Affairs Officer for the Veterans' Administration Medical Center in Lexington delivered an update on consolidation of operations in Lexington, and a representative from the Louisville VA office gave a report on VA activity in Louisville.

The Executive Director of the Joint Executive Council of Veterans' Organizations delivered the group's legislative priorities to the members of the subcommittee, including an increase in funding for personal service contracts, funding for a veteran's cemetery in Williamstown, full-funding for the veterans' nursing homes and the Western Kentucky Veterans' Cemetery, tuition waivers for dependents of qualifying servicemen, and a

Homestead Tax exemption for the surviving spouse of a qualifying veteran. The final item on the agenda was a discussion of the POW-MIA flag and its flying at the Kentucky Vietnam Veterans' Memorial. The Vietnam Veterans of America representative to JECVO presented testimony in favor of flying the flag year round at the memorial, and the Executive Director and Secretary of the Vietnam Veteran's Memorial Fund presented testimony encouraging the flying of the POW-MIA flag at the memorial on a schedule identical to the current federal schedule.

At its October 22, 2001, meeting in Hazard, the subcommittee heard testimony regarding 02 BR 280, which would establish a Kentucky Military Heritage Commission to protect and preserve items and artifacts with special military significance. The Commissioner of the Kentucky Department of Veterans' Affairs reported on budget issues related to the construction of the two new veterans' nursing homes in Hanson and Hazard as well as funding issues related to the construction of the proposed veterans' cemeteries. The Commissioner also discussed personal service contracts with various veterans' service organizations and JECVO's request for increased funding. On the issue of personal service contracts, the Executive Director of JECVO also addressed the committee on the need for increased funding. Following the adjournment of the subcommittee, members and guests toured the veterans' nursing home in Hazard.

In the upcoming meeting to be held on November 26, 2001, in Madisonville, the subcommittee anticipates receiving updates on the Hanson and Hazard nursing homes. The subcommittee will hear from the Commissioner of the Department of Veterans' Affairs and the Executive Director of JECVO regarding personal service contracts. The Executive Director of JECVO will also discuss the November 7, 2001, meeting of the executive council of JECVO, and following adjournment, members of the subcommittee and guests will travel to Hanson to tour the Western Kentucky Veterans' Center.

**TASK FORCE ON FUNDING FOR WILDLIFE CONSERVATION**

**Senator Charlie Borders, Co-Chair**  
**Representative Royce Adams, Co-Chair**

Senator Joey Pendleton  
Representative Dwight Butler  
Representative Dennis Horlander  
Representative William Scott  
Joe Bland, National Wild Turkey Federation  
Mike Boatwright, Kentucky Department of Fish and Wildlife Resources Commission  
Bill Hintze, Governor's Office of Policy and Management  
Taylor Davidson, Phil Hulsman, AARP  
Frank Elsen, Kentucky Waterway Alliance  
Roland Beers, League of Kentucky Sportsmen  
Stephanie Robey, Auditor of Public Accounts  
Steve Woodring, Trout Unlimited  
Marcheta Sparrow, Ky. Tourism Council

LRC STAFF: D. Todd Littlefield and Sheri Mahan

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## **TASK FORCE ON FUNDING FOR WILDLIFE CONSERVATION**

**JURISDICTION:** Recognizing a troubling downward trend in the long-term funding for the Department of Fish and Wildlife Resources, and the increasing need for wildlife conservation and management in Kentucky, the 1996 General Assembly enacted House Concurrent Resolution 76 (HCR 76) to address funding for wildlife conservation.

The Task Force on Funding for Wildlife Conservation was created pursuant to this legislation and has been reauthorized by the 1998 and 2000 General Assemblies.

### **ACTIVITIES**

At the task force's 2001 meeting, the Commissioner of the Department of Fish and Wildlife Resources reviewed the progress that's been made in implementing the task force's recommendations, some developments in other states, and the department's plans for the future.

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

The primary recommendation of the 97 report that remains unmet is that of finding a way for all Kentuckians to help pay for fish and wildlife conservation. Strategies being implemented by other states were discussed including a percentage of sales tax, income tax checkoff, lottery, severance taxes, registration of out-of-state boaters and off-road vehicles, and dedication of environmental fines among others.

The Department budget director then outlined current revenue sources and where that revenue is being expended. In the future, as revenue becomes flat and expenditures continue to rise, the rapid elimination of the fund balance is a great danger.

Surveys conducted in recent years have shown that the public overwhelmingly favors the idea that all citizens should share the responsibility of paying for wildlife conservation. Even accounting for survey error, a healthy majority support broadening the revenue base of the department. Naturally, ideas such as nonresident boat registration enjoy the greatest support. With rising populations and development occurring in more previously wild acres, preservation and conservation become critical. Because habitat and

species restoration are lengthy processes, a long-term plan for reliable, stable funding for wildlife conservation is very important.

Some members expressed support for continuing the Task Force and urged support for legislation in the 2002 General Assembly that would reauthorize the Task force.