

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

**1998-99**

**Informational Bulletin No. 202**

**Legislative Research Commission  
Frankfort, Kentucky  
December, 1999**

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

**1998-99**

Presented to the  
**Legislative Research Commission  
and the  
2000 Kentucky General Assembly**

Edited by  
**Charles Bush and Tom Lewis**

**Informational Bulletin No. 202**

**Legislative Research Commission  
Frankfort, Kentucky  
December, 1999**

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## **FOREWORD**

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

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

During the 1998 interim, the Legislative Research Commission authorized the formation of fourteen interim joint committees. In addition, twenty-three special committees were established to address particular issues during the interim. Seven committees of the General Assembly and the Legislative Research Commission are authorized by statute.

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 1998 General Assembly. The reports were prepared separately by the committee staff and were compiled and edited by Charles Bush, Research Editor.

Robert Sherman  
Director

The Capitol  
Frankfort, Kentucky  
December, 1999



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**REPORT OF THE 1998-99  
INTERIM JOINT COMMITTEE ON  
AGRICULTURE AND NATURAL RESOURCES**

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Rep. Royce Adams  
Rep. Rocky Adkins  
Rep. Scott Alexander  
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Rep. John Arnold, Jr.  
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Rep. Porter Hatcher  
Sen. Paul Herron  
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Rep. Jeffrey Hoover  
Sen. Dan Kelly  
Sen. Marshall Long  
Sen. Vernie McGaha  
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Rep. Fred Nesler  
Rep. R. J. Palmer  
Rep. Billy Polston  
Rep. William Scott  
Sen. Tim Shaughnessy  
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Rep. Jim Stewart  
Rep. Gary Tapp  
Sen. Elizabeth Tori  
Rep. Mark Treesh  
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Rep. Tommy Turner  
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Rep. Robin Webb  
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LRC STAFF: Dan Risch, Andrew Cammack, Biff Baker, Kim Burch,  
and Wanda Gay

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION  
OF THE KENTUCKY GENERAL ASSEMBLY**

## **SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

### **SUBCOMMITTEE ON AGRICULTURE AND SMALL BUSINESS**

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Rep. Adrian Arnold  
Rep. John Arnold  
Rep. Sheldon Baugh  
Rep. Jim Bruce  
Rep. Dwight Butler  
Rep. Jack Coleman  
Sen. Brett Guthrie  
Sen. Paul Herron  
Sen. Marshall Long  
Sen. Vernie MaGaha  
Rep. Thomas McKee  
Rep. Fred Nesler  
Rep. R. J. Palmer  
Rep. Billy Polston  
Rep. Roger Thomas, Co-Chair  
Rep. William Scott  
Rep. Dottie Sims  
Rep. Gary Tapp  
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Rep. Ken Upchurch  
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Rep. Woody Allen  
Rep. Mike Cherry  
Rep. Phillip Childers  
Rep. Jim Stewart  
Sen. Elizabeth Tori  
Rep. Johnnie Turner  
Rep. Robin Webb

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

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

### **COMMITTEE ACTIVITY**

The Interim Joint Committee on Agriculture and Natural Resources met eighteen times during the 1998-99 legislative interim as of December 31, 1999. The Committee held nine meetings outside of the Capitol.

The Committee's subcommittees met seventeen times through December 31, 1999. The total number of meetings held this interim by the full committee and its subcommittees was 35.

The Committee met at the Salato Wildlife Education Center for its first meeting. The Center helps the Kentucky Department of Fish and Wildlife Resources educate the public about Kentucky's wildlife resources. The Committee also received an update on the Department's reintroduction of elk into eastern Kentucky. At the end of the interim, the Committee reviewed a Department program titled "Step Outside." The program seeks to increase participation in the outdoor sports of target and trap shooting, archery, and fly fishing.

Next, beginning with a visit to Kentucky State University and its agricultural research farm, the Committee visited the agricultural research farms and related campus facilities at; Murray State University, Western Kentucky University, the University of Kentucky, Eastern Kentucky University, and Morehead State University. These visits to the state's universities led to the drafting of a research memorandum titled *Higher Education: Foundation for Kentucky Farms*.

The Committee also toured eastern Kentucky where the Committee received reports on the development plans for Breaks Interstate Park, the implementation of the 1998 Kentucky Forest Conservation Act, the reintroduction of elk into eastern Kentucky, and the clean-up of Dewey Lake at Jenny Wiley State Park. The Committee also visited Pine Mountain Lumber, Lilly Cornett Woods, and viewed several roadside trash dumps.

In a second visit to the eastern part of the state, the Committee viewed a surface coal mine near Hazard, sites of development on reclaimed mines, and reclamation and forestry management research being conducted on another surface mine site.

And, as has been the practice of the Committee for several interims, the Committee traveled to Louisville to meet with the State Fair Board during the 1998 and 1999 State Fairs.

Early in the interim the Committee received a report on 1998 legislation implemented by the Department of Fish and Wildlife Resources. Of particular note, the report covered House Bill 1, which is directed toward enhancing the safe operation of personal water craft and House Bill 654, which authorized the Department to issue senior citizen and disabled citizen hunting and fishing licenses.

A report was received from the Department of Mines and Minerals on continuing efforts to instill safe working habits in miners. The Commissioner of the Department reported that three miners had been decertified as a result of failing to follow safety procedures.

The Commissioner also reported the results of a Committee directed inquiry into the timing of mine accidents. The Department had reviewed mine accident data to determine if more accidents occurred later in miners' work shifts when they would be expected to be tired and error prone. The data did not confirm the expectation, but actually revealed the opposite: most accidents occur early in a work shift. The Commissioner told the Committee that the information will be used to strengthen the Department's safety requirements.

The Committee received testimony on a project designed to encourage greater use of Kentucky coal. The project was a joint venture between the Kentucky Coal Council, East Kentucky Power, and Global Energy to develop a 400 megawatt power plant. The energy source would be a combination of municipal solid waste and coal.

The Committee held a joint meeting with the Special Subcommittee on Energy. The Committee and the Subcommittee took extensive testimony on the U.S. EPA controls on nitrogen oxide (NOx) emissions. The discussion centered on the state strategy to meet the tightened standards and their effect on utilities and other NOx sources.

Representatives of the Natural Resources and Environmental Protection Cabinet reported on efforts to resolve conflicting private and public interests on Black Mountain in eastern Kentucky. In addition, the PRIDE program (Personal Responsibility in a Desirable Environment) was outlined for the Committee, as well as the cabinet's efforts to clean-up waste tire piles. The primary emphasis of the PRIDE program is the elimination of open solid waste dumps and stopping the discharge of untreated sewage from homes directly into streams.

The Committee also received a briefing about the national tobacco settlement.

### **Administrative Regulations**

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

This interim the Committee and its subcommittees received for review 258 administrative regulations. These regulations related to the programs of the Department of Agriculture, the Agricultural Experiment Station, the Department of Fish and Wildlife Resources, the Department of Mines and Minerals, the Divisions of Air Quality, Waste Management, and Water in the Department for Environmental Protection, the Kentucky Heritage Land Conservation Fund Board, and the Office of the Petroleum Storage Tank Environmental Assurance Fund.

All but one of the regulations were found to comply with statutory requirements. The one regulation found not to comply with statutory requirements was a Division of Water regulation proposed as a means of controlling the environmental risks associated with hog farming.

At the end of the interim, the Division of Waste Management was asked to explain changes to an administrative regulation made earlier in the interim. The changes increased the operational requirements for less than one acre construction/demolition debris solid waste management facilities. The Committee expressed the concern that a prohibition on siting the facilities within wellhead protection areas would unreasonably restrict the use of the facilities.

From June of 1999 until September 1999, the Committee agreed to defer, at the request of the Division, a review of administrative regulations of the Division of Air Quality. The regulations related to the implementation of a federal program for chemical accident prevention and risk management. However, at the September meeting the Committee communicated to the Division that at the October meeting the regulations should either be withdrawn or amended and allowed to become effective. At the October meeting, the Division offered amendments accepted by the Committee and the regulations went into effect.

### **Reorganization Plans**

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

98-1050      Reorganize the Office of Petroleum Storage Tank Environmental Assurance Fund.

- 98-1247 Reorganize the Office of Petroleum Storage Tank Environmental Assurance Fund.
- 99-413 Create the Office of Inspector General in the Office of the Secretary of the Natural Resources and Environmental Protection Cabinet.

The Committee determined that Executive Orders 99-413 and its Reorganization Plan "...can reasonably be expected to achieve greater economy, efficiency, or improved administration in state government...." Because of difficulties in scheduling committee time, Executive Orders 98-1050 and 98-1247 were not reviewed by the Committee.

### **Resolutions and Letters Requesting Action**

A resolution was adopted urging the Tennessee Valley Authority (TVA) to negotiate a new contract requiring the Peabody Coal Company to supply the TVA with coal mined from the Camp Complex mines area in western Kentucky.

A resolution was adopted urging direct federal drought relief for Kentucky farmers.

A resolution was adopted urging the Kentucky Congressional Delegation to co-sponsor and support federal legislation that would authorize the Southern Dairy Compact and reauthorize the Northeast Dairy Compact.

A letter was sent to the federal Office of Surface Mining and to Senator Mitch McConnell and Congressman Hal Rogers emphasizing:

1. That the Committee advocates the return of money paid by Kentucky operators to the Abandoned Mine Reclamation Trust Fund, Title IV of the 1977 Surface Mining Control and Reclamation Act (SMCRA);
2. That the Committee proposes that Title IV of the 1977 SMCRA be modified to allow the use of AML money on post-SMCRA mine sites with released bonds for the purpose of reforestation;
3. That the Committee proposes that the Office of Surface Mining establish a Reforestation Initiative on lands eligible for AML funds; and
4. That the Committee requests support in seeking an appropriation for reforestation pilot projects on 3,000 acres of previously reclaimed land.

### **Prefiled Bills Referred by the Legislative Research Commission**

The following bills prefiled for the 1999 regular session were referred by the Legislative Research Commission to the Committee:

- 99 RS BR 143 AN ACT relating to hunting and fishing licenses.
- 99 RS BR 353 AN ACT relating to the Petroleum Storage Tank Environmental Assurance Fund.
- 99 RS BR 405 AN ACT relating to the disposition of funds for health initiatives under the national tobacco settlement.
- 99 RS BR 432 AN ACT relating to cigarettes.
- 99 RS BR 452 AN ACT relating to cigarettes.
- 99 RS BR 523 AN ACT relating to establishment of the Kentucky Tobacco Settlement Corporation.
- 99 RS BR 526 AN ACT relating to reorganization of the Kentucky Coal Council.
- 99 RS BR 529 AN ACT relating to reorganization to establish the Office of Inspector General in the Natural Resources and Environmental Protection Cabinet.
- 99 RS BR 536 AN ACT relating to reorganization of the Office of the Petroleum Storage Tank Environmental Assurance Fund.

The Committee has not scheduled testimony on any of these prefiled bills as of the writing of this report.

### **Legislative Proposals Received from State Agencies**

The Committee requested legislative proposals for the 2000 regular session from state agencies with programs under the jurisdiction of the Committee. This has been a standard procedure of the Committee since the interim joint committee system began in 1968. The Committee has received no agency legislative proposals as of the writing of this report.

### **Reports Received**

Senate Bill 214, AN ACT relating to the Kentucky Forest Conservation Act. The Committee received a report detailing the implementation plan for the 1998 Forest Conservation Act.

Senate Concurrent Resolution 131, A CONCURRENT RESOLUTION reauthorizing the 1996 Task Force on Funding for Wildlife Conservation to conduct two meetings and to report its findings. It is anticipated that before December 31, 1999, the Committee will receive a report on the implementation of the Task Force's recommendations.

Senate Joint Resolution 118, A JOINT RESOLUTION directing the Kentucky Coal Marketing and Export Council to conduct a review of incentives appropriate to encourage the mining of economically marginal seams of coal. The Committee anticipates receiving this report at the December meeting.

House Bill 172, AN ACT relating to a groundwater monitoring network. The Committee received a report summarizing the work toward establishing a groundwater monitoring network

House Joint Resolution 63, authorizing and directing a comprehensive study of the feasibility of creating regional agricultural marketing centers in Kentucky, and making an appropriation therefor. The Committee received a report containing recommendations for farmers' market financing, site location, operation, and physical structure.

House Joint Resolution 72, authorizing and directing a comprehensive study of the aquacultural industry in Kentucky, and making an appropriation therefor. The Committee received a plan for aquaculture addressing production possibilities, marketing and promotional needs, regulatory considerations, research, extension and educational needs, and the financial needs to develop aquaculture in the state.

House Joint Resolution 121, proclaiming the fourth week of March each year as "Commonwealth Cleanup" week, and directing the Natural Resources and Environmental Protection Cabinet to support those communities that engage in spring cleaning in celebration of Kentucky's natural beauty. The Committee received a report on local activities during Commonwealth Cleanup Week, the results of a statewide poster contest, and receipts and expenditures for the week's program.

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

*Tobacco and Health Research Institute: July 1, 1996 - June 30, 1997.*

*Tobacco and Health Research Institute: January 1 - March 31, 1998.*

*Tobacco and Health Research Institute: July 1, 1997 - June 30, 1998.*

*Tobacco and Health Research Institute: July 1 - September 30, 1998 .*

*Tobacco and Health Research Institute: January 1 - March 31, 1999.*

*Tobacco and Health Research Institute: April 1 - June 30, 1999.*

*Mining and Minerals Trust Fund Report: December 31, 1997.*

*Mining and Minerals Trust Fund Report: March 31, 1998.*

*Mining and Minerals Trust Fund Report: September 30, 1998.*

*Mining and Minerals Trust Fund Report: March 31, 1999.*

*Kentucky State Nature Preserves Commission: 1998 Report on Kentucky's Rare and Native Plants - Status and Trends.*

*Natural Resources and Environmental Protection Cabinet Quarterly Report:  
April 30, 1999.*

*Kentucky Recycling and Marketing Assistance: Annual Report to the Interim Joint  
Committee on Agriculture and Natural Resources; July 1, 1998 - June 30, 1999.*

Some state agency reports mandated by law may have been accepted by a Subcommittee of this Committee and are recorded in the Subcommittee sections of this report.

### **Subcommittee on Agriculture and Small Business**

The Subcommittee met nine times during the interim, as of October 31, 1999. The Subcommittee met late in the interim to discuss the Unified Proposal for Kentucky Agriculture, which relates to the \$3.45 billion Kentucky will receive over the next 25 years from Phase I of the Master Settlement Agreement.

The Subcommittee's interim activity centered on program updates by various agencies. Information was presented to the Subcommittee concerning the activities of the Kentucky Agriculture Resources Development Authority, the Governor's Office of Agriculture Policy, the Governor's Family Farm Commission, the Kentucky Department of Agriculture, the Division of Conservation, the Commodity Grower's Cooperative, and Kentucky State University's extension programs.

The Subcommittee visited the research farms at Murray State University, Western Kentucky University, and Eastern Kentucky University. It also visited the Breathitt Veterinary Diagnostic Laboratory and a confined hog operation.

In addition, the Subcommittee heard a presentation relating to horticulture and received an update from the Small Business Development Center Network, as required by Kentucky Acts 1996, Chapter 293, Section 2, relating to its annual financial and program status. The Subcommittee also received a report relating to Regional Agricultural Marketing Centers, as mandated by 1998 House Joint Resolution 63, and a report relating to a State Aquaculture Plan, as mandated by 1998 House Joint Resolution 72.

The Subcommittee reviewed 13 administrative regulations of the Kentucky Agricultural Experiment Station and recommended to the full committee that the regulations be found to be in compliance with KRS Chapter 13A.

### **Subcommittee on Environment**

The Subcommittee met four times through October 31, 1999. Two more meetings are expected to be held before December 31, 1999.

The Subcommittee received a thorough briefing on the programs of the Division of Air Quality. The briefing included an overview of the process of air monitoring, the Tri-State Geographic Initiative, risk management plans required under Section 112r of the federal Clean Air Act, toxic release reporting requirements, proposed U.S. EPA standards to lower the sulfur content of gasoline and further lower exhaust emissions from vehicles, vehicle exhaust testing programs, new nitrogen oxides (NOx) air emission standards, and the new requirements for ozone and particulate matter.

The Kentucky Environmental Education Council Executive Director apprised the Subcommittee of the development of a strategy to unify the process of environmental education across the state. The strategy is outlined in a report titled, *Land, Legacy and Learning: Making Education Pay For Kentucky's Environment*. The report contains twenty recommendations, many of which are expected to be presented to the 2000 General Assembly.

As has been the case for several interims, a school with a notable environmental education program was invited to address the Subcommittee. This interim, students of the Clay County High School gave a presentation to the Subcommittee.

The Subcommittee received a report from representatives of the Water Resources Development Commission. The Commission has been working toward the Administration's goal of providing access to potable water for all Kentuckians by 2020. Also, on the subject of water, the Kentucky Infrastructure Authority explained its programs to find water and wastewater infrastructure projects.

Representatives from Louisville reported to the Subcommittee about the activities of the Brownfields Work Group which has been working to return to use land within the city which is unused because of environmental contamination. About five thousand brownfield sites have been identified in Louisville. However, the point was made that brownfield sites are found everywhere in the state.

Finally, the Subcommittee reviewed and made recommendations on 15 administrative regulations of the Division of Air Quality, two regulations of the Division of Waste Management, and six regulations of the Kentucky Heritage Land Conservation Fund Board.

### **Subcommittee on Natural Resources**

The Subcommittee met two times during the interim.

The Subcommittee heard an update on the 1998 Kentucky Forest Conservation Act. Department of Natural Resources personnel explained an implementation plan for the act that included regulation development, training and education, master logger program, inspection and enforcement protocols, and forestry best management practices. Department representatives noted that the Division of Forestry is undertaking an inventory

of the state's forests. They noted that no funds have been appropriated for the forest stewardship incentives program, and they stated that the division wants to increase nursery production.

The Subcommittee also heard a report on Kentucky's Abandoned Mine Land (AML) Program. The program uses fees collected from current mining operations for reclamation of unreclaimed sites mined before the passage of the Surface Mining and Reclamation Act of 1977 (SMCRA). Kentucky coal operators have paid over \$34 million per year in fees to the AML fund while the state has only received around \$15.5 million in return per year for the last ten years. Kentucky's unappropriated share balance is \$97.5 million. Members of the Subcommittee strongly urged the federal government to return these funds to the state.

Representatives of the Department of Surface Mining Reclamation and Enforcement noted accomplishments of the state's AML program and discussed current projects.

A Subcommittee member noted that the biggest flaw in the SMCRA is its requirement to compact soils during reclamation, which prevents tree growth. The member urged the federal government to allow mined soils to be left less compacted so timber can be grown. The member also urged the federal government to allow AML money to be used for pilot projects to involve ripping of soil on compacted mine sites and planting of trees.

Finally, the Subcommittee reviewed and made recommendations on one administrative regulation of the Department of Surface Mining Reclamation and Enforcement and two regulations of the Department of Fish and Wildlife Resources.



**REPORT OF THE 1998-99  
INTERIM JOINT COMMITTEE ON  
APPROPRIATIONS AND REVENUE**

**Sen. Benny Ray Bailey, Co-Chair  
Rep. Harry Moberly, Jr., Co-Chair**

Rep. Royce Adams	Rep. Jimmie Lee
Rep. Rocky Adkins	Sen. Marshall Long
Rep. Scott Alexander	Rep. Mary Lou Marzian
Rep. Joe Barrows	Sen. Vernie McGaha
Rep. Dwight D. Butler	Sen. Ed Miller
Rep. Jim Callahan	Sen. Virgil Moore
Sen. Lindy Casebier	Rep. Lonnie Napier
Rep. Larry Clark	Sen. Gerald A. Neal
Rep. Jack L. Coleman, Jr.	Rep. Fred Nesler
Rep. Barbara Colter	Rep. Stephen R. Nunn
Rep. Jesse Crenshaw	Sen. Richie Sanders, Jr.
Rep. Rep. Robert R. Damron	Sen. Larry Saunders
Rep. Bob M. DeWeese	Rep. Charles L. Siler
Rep. Danny R. Ford	Rep. John Will Stacy
Sen. Glenn Freeman	Sen. Robert Stivers
Sen. Brett Guthrie	Rep. Mark A. Treesh
Rep. Porter Hatcher, Jr.	Rep. John Vincent
Rep. Rep. Bob Heleringer	Rep. Jim Wayne
Sen. Paul Herron, Jr.	Rep. Rob Wilkey
Rep. Susan Johns	Sen. Ed Worley
Sen. Dan Kelly	Rep. Pete Worthington

LRC STAFF: Terry K. Jones, John Scott, Lou Pierce, and Kathy King

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**

**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**Subcommittees on Legislative Budget Review and Oversight**

**BUDGET REVIEW SUBCOMMITTEE ON  
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**Sen. Dan Kelly, Co-Chair**

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

Rep. Jim Callahan

Rep. Larry Clark

Rep. Lonnie Napier

Rep. John Vincent

Rep. Ruth Ann Palumbo, Ex-Officio

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Rep. Robert Buckingham, Liaison Member

Rep. Phillip Childers, Liaison Member

Sen. Dan Seum, Liaison Member

Sen. Katie Stine, Liaison Member

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**Sen. Jack Westwood, Co-Chair, Liaison Member**  
**Rep. Royce Adams, Co-Chair**

Rep. Robert R. Damron  
Rep. Bill Lile  
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Sen. Brett Guthrie, Liaison Member  
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LRC BUDGET REVIEW STAFF: Jim Works, Karen Hilborn Crabtree, and Bettina Abshire

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**Rep. Jimmie Lee, Co-Chair**

Rep. Bob DeWeese  
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**Sen. Robert Stivers, Co-Chair**  
**Rep. Jesse Crenshaw, Co-Chair**

Rep. Dwight Butler  
Rep. Susan Johns  
Rep. Rob Wilkey

Rep. Ira E. Branham, Liaison Member  
Sen. Ernie Harris, Liaison Member  
Sen. Dale ShROUT, Liaison Member  
Rep. Robin Webb, Liaison Member  
Rep. Brent Yonts, Liaison Member

LRC BUDGET REVIEW STAFF: Steve Mason, Kimberly Link, and Bettina Abshire

**BUDGET REVIEW SUBCOMMITTEE ON  
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**Sen. Virgil Moore, Co-Chair**  
**Rep. Pete Worthington, Co-Chair**

Rep. Scott Alexander  
Rep. Jack Coleman  
Rep. Danny Ford  
Rep. Fred Nesler  
Rep. Hubert Collins, Ex-Officio

Rep. John Arnold, Liaison Member  
Rep. Eddie Ballard, Liaison Member  
Sen. Vernie McGaha, Liaison Member  
Sen. Ernesto Scorsone, Liaison Member  
Rep. William U. Scott, Liaison Member

LRC BUDGET REVIEW STAFF: Steve Mason and Fonda Snyder

**Ex-Officio Members:**  
**Sen. Benny Ray Bailey**  
**Sen. Richie Sanders, Jr.**  
**Rep. Harry Moberly, Jr.**

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

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

### **COMMITTEE ACTIVITY**

The Interim Joint Committee on Appropriations and Revenue has met 13 times during the 1998-99 legislative interim, as of October 29, 1999, and was approved by the Legislative Research Commission to hold meetings in November and December to prepare for the 2000 Regular Session of the General Assembly.

At its first meeting, held on July 28, 1998, the committee heard a report on year-end revenue receipts, an analysis of revenue for FY 1997-98, a preliminary report on year-end balances, a report on the implementation and execution of the capital construction projects and surplus expenditure plan, and review and consideration of appropriation increase requests.

The committee also heard testimony relating to an appropriation increase request from the Department of Corrections to match federal money to build a "SuperMax" prison unit at the Kentucky State Penitentiary in Eddyville to house the state's most violent inmates.

At its second meeting, held on September 24, 1998, the committee received an update on the status of projects in the surplus expenditure plan. The committee also received an update on the termination of the Kentucky Kare health insurance plan. The committee also reviewed and approved Executive Order 98-1269, relating to reorganization of enacted budget capital projects.

At its third meeting, held on October 22, 1998, the committee reviewed and considered two administrative regulations. Administrative Regulation 103 KAR 7:011 related to the repeal of two existing administrative regulations that required PVAs to be present at the opening of a decedent's safe deposit box and to issue inheritance tax lien releases on the contents of safety deposit boxes and other financial accounts held by a financial institution on behalf of a decedent's estate. Administrative Regulation 200 KAR 15:010 & E related to the formula for allocating Kentucky's state ceiling on the issuance of private activity bonds. The administrative regulations were approved. The committee also reviewed and considered appropriation increase requests.

At its fourth meeting, held on January 28, 1999, the committee received the Finance and Administration Cabinet's official update on General Fund and Road Fund receipts, a report on the status of capital construction projects and the surplus expenditure plan, and a review and consideration of appropriation increase requests.

At the fifth meeting, held on February 25, 1999, the Finance and Administration Cabinet explained two budget interpretations. The first dealt with three University of Kentucky capital projects, and the second dealt with the Commonwealth Virtual University and the Kentucky Community and Technical College Automated Administrative Systems. The committee agreed with the cabinet's interpretations.

The Revenue Cabinet explained Administrative Regulation 103 KAR 44:060 & E, which defined the terms and established the procedures for carrying out the provisions of House Bill 74, enacted by the 1998 General Assembly, changing the valuation of motor vehicles for the motor vehicle usage tax. The committee approved the administrative regulation. The committee also received an update from the Transportation Cabinet on the status of highway projects that the General Assembly added to the 1998-2000 budget.

At its sixth meeting, on March 25, 1999, the Finance and Administration Cabinet presented a historical background and administrative outlook on Kentucky's Road Fund revenues. The Revenue Cabinet reported on Kentucky's fuel tax rates and how Kentucky compares with the nation and surrounding states, and the Transportation Cabinet addressed the committee about the Road Fund budget and funding needs for highway construction in Kentucky. The committee also reviewed and considered Executive Order 99-320, which reorganized the Revenue Cabinet. The committee approved the Executive Order.

At its seventh meeting, held on April 22, 1999, the Finance and Administration Cabinet and the committee's consulting economist reported on the status of General Fund and Road Fund revenue receipts for the third quarter of FY 1999 and preliminary estimates for year-end FY 1999. The committee also reviewed and considered appropriation increase requests.

The agenda for the committee's eighth meeting, on May 27, 1999, included an update from the Cabinet for Families and Children on surplus TANF funds and a status report from the Cabinet for Health Services on the implementation of the Medicaid Managed Care program. The committee also received a feasibility study that supported building two expandable medium security prisons simultaneously in Knott and Elliott counties.

The committee's ninth meeting was held on June 24, 1999. At this meeting, the Kentucky Lottery Commission presented a summary of the lottery's results for FY 1998, a projection of lottery results for FY 1998-99, and the lottery's proposed budget for FY 1999-2000. The commission also reported on a May 1999 study update entitled, "An

Examination of Gaming Opportunities to Protect and Increase KLC Revenue and Dividends in the Face of Increasing Competition."

At the tenth meeting, held July 22, 1999, the committee received a report on year-end revenue receipts, a preliminary report on year-end account balances, and the status of the surplus expenditure plan. The committee also reviewed Administrative Regulation 103 KAR 1:050, which authorized the Revenue Cabinet to prescribe tax forms and incorporate them by reference. The administrative regulation was approved. The committee also reviewed and considered appropriation increase requests.

The committee held its eleventh meeting on August 26, 1999. At this meeting, the committee received an update on the status of state employees' health insurance from representatives of the Personnel Cabinet. The committee also heard testimony from representatives of the Kentucky Science and Technology Corporation and received their report entitled, "Kentucky's Science and Technology Strategy." The committee also received an explanation of Administrative Regulation 802 KAR 1:010 from representatives of the Kentucky Board of Tax Appeals. The committee did not act on the administrative regulation.

At its twelfth meeting, on September 23, 1999, the committee heard testimony relating to funding needs for Kentucky's archival and records management in the Department for Libraries and Archives.

The committee adopted a resolution relating to underground petroleum storage tanks and the ATI bankruptcy case. The resolution urged the Governor to assist subcontractors who are being forced into filing liens against individuals and businesses which are mostly "Mom and Pop" run service stations and convenience stores. The subcontractors are having to seek payment directly from the store owners because of the freezing of assets and suspension of payment from the Underground Petroleum Storage Tank Environmental Assurance Fund to ATI.

The committee also considered a budget interpretation made by the Finance and Administration Cabinet concerning clarification of annual and sick leave credit for former United Prosecutorial Service (UPS) employees moving to the executive branch of state government, or the Attorney General's office. The committee had no objection to the budget interpretation.

The committee's thirteenth meeting was held on October 28, 1999. At this meeting, the committee received an update on the consensus revenue forecasting estimates. A representative from the Department of Public Advocacy and a member of "The Blue Ribbon Group" presented the group's final report on "Improving Indigent Defense for the 21st Century." The committee reviewed and approved five administrative regulations: 200 KAR 14:011, 200 KAR 14:081, and 200 KAR 14:091 were Finance and Administration Cabinet regulations. Administrative regulations 103 KAR 20:020 and 103

KAR 30:096 were from the Revenue Cabinet. The committee also held its quarterly review of appropriation increase requests.

### **SUBCOMMITTEE ACTIVITY**

The Interim Joint Committee on Appropriations and Revenue is organized into six budget review subcommittees. Their purpose is to review revisions to the enacted 1998-2000 budget and to monitor the budgetary operations and programs of state government as well as address agency budget needs for the 2000-2001 biennium.

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

The Budget Review Subcommittee on General Government, Finance, and Public Protection has held eight meetings during the interim. Significant issues and presentations included an overview of the Petroleum Storage Tank Environmental Assurance Fund by the Public Protection and Regulation Cabinet and the Natural Resources and Environmental Protection Cabinet; a presentation on the EMPOWER KY program by the Finance and Administration Cabinet, the Revenue Cabinet, and a representative of the EMPOWER KY team; a presentation by the representatives of the Unsecured Creditors Committee relating to the ATI Bankruptcy Case; and an overview of Kentucky's progress toward remediating any Year 2000 compliance issues presented by Governor's Office for Technology.

	<u><b>FY 1998-99</b></u>	<u><b>Number</b></u>	<u><b>FY 1999-2000</b></u>	<u><b>Number</b></u>
<b>General Fund</b>	\$ 8,571,700	23	\$ 3,631,100	6
<b>Restricted Funds</b>	13,313,900	51	26,416,615	38
<b>Federal Funds</b>	47,327,500	12	20,509,000	8

#### **FY 1998-99**

<u><b>Cabinet</b></u>	<u><b>General Fund</b></u>	<u><b>Restricted Funds</b></u>	<u><b>Federal Funds</b></u>
<u><b>General Government</b></u>			
Office of the Governor	\$-15,000		\$111,700
Board of Elections	94,800	\$83,700	
Treasury		78,700	
Attorney General		701,000	657,000
Unified Prosecutorial Systems:			
Commonwealth's Attorneys	62,300	400,000	
County Attorneys	79,600	64,000	
Department of Agriculture		229,000	530,600
Military Affairs	7,699,000	2,700,000	40,000,000
Local Government	106,100	753,000	5,241,000
Commission on Human Rights		118,000	
Commission on Women		3,300	

Kentucky Kare Health Insurance		100,000	
Boards and Commissions		526,000	
Miscellaneous Appropriations	-426,100		
<b><u>Finance and Administration</u></b>			
General Administration	570,000	3,500	
Department for Administration		305,000	
Facilities Management	401,000		
Information Systems		1,185,700	
County Costs		200,000	
<b><u>Labor Cabinet</u></b>			
Workplace Standards			455,000
<b><u>Personnel Cabinet</u></b>			
		945,000	
<b><u>Public Protection and Regulation Cabinet</u></b>			
Alcoholic Beverage Control		2,547,500	253,900
Insurance		115,800	
Kentucky Racing Commission		250,000	
Public Advocacy		230,700	78,300
Charitable Gaming		1,359,000	
Housing, Buildings and Construction		265,000	
Financial Institutions		150,000	
<b>Subcommittee Total</b>	<b>\$8,571,700</b>	<b>\$13,313,900</b>	<b>\$47,327,500</b>

**FY 1999-2000**

<b><u>Cabinet</u></b>	<b><u>General Fund</u></b>	<b><u>Restricted Funds</u></b>	<b><u>Federal Funds</u></b>
<b><u>General Government</u></b>			
Office of the Governor	\$-15,000		\$105,500
Board of Elections	106,100		
Unified Prosecutorial Systems:			
Commonwealth's Attorneys		\$439,915	100,000
County Attorneys		65,000	149,200
Department of Agriculture			90,000
Military Affairs	3,525,000	5,000,000	15,000,000
Local Government		773,000	4,227,500
Commission on Human Rights		21,500	
Commission on Women	15,000		
Kentucky Retirement Systems		518,900	
Boards and Commissions		1,128,000	
Government Services Center		106,000	
Miscellaneous Appropriations	-230,000		

**Finance and Administration**

General Administration		726,700	
Administration	230,000	324,000	
Information Systems		8,381,800	
Commercial Mobile Radio Emerg. Telecom. Board			

**Labor Cabinet**

Workplace Standards			450,000
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**Personnel Cabinet**

2,400,000

**Public Protection and Regulation  
Cabinet**

Public Advocacy		250,000	386,800
Alcoholic Beverage Control		3,255,000	
Office of the Secretary		275,000	
Housing, Buildings and Construction		1,050,800	
Charitable Gaming		<u>1,500,000</u>	
<b>Subcommittee Total</b>	<b><u>\$3,631,100</u></b>	<b><u>\$26,416,615</u></b>	<b><u>\$20,509,000</u></b>

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

The Budget Review Subcommittee on Economic Development, Natural Resources, and Tourism has held six meetings during the interim and may have additional meetings prior to the 2000 Session.

The Subcommittee reviewed and recommended approval for requests for appropriation increase authority from the three cabinets under its jurisdiction. The increases by Cabinet and fiscal year are as follows:

**FY 1998-1999 Appropriation Increases**

<b>Cabinet</b>	<b>General Fund</b>	<b>Restricted Funds</b>	<b>Federal Funds</b>
Economic Development		\$138,000	
Natural Resources	\$1,171,100*	\$958,000	\$35,000
Tourism		\$257,000	\$688,400

\*Necessary Governmental Expense for forest fire suppression efforts.

## **FY 1999-2000 Appropriation Increases**

<b>Cabinet</b>	<b>General Fund</b>	<b>Restricted Funds</b>	<b>Federal Funds</b>
Economic Development		\$635,000	\$168,300
Natural Resources		\$4,055,100	\$139,000
Tourism		\$795,000	

The Economic Development Cabinet provided a status report to the Subcommittee on the Regional Industrial Park Program, and Tourism Marketing efforts by the East Kentucky Corporation; and provided an overview of the Cabinet's Capital Projects Budget Request for FB 2000-02. The Subcommittee also heard from a Golf Travel Information Network representative regarding Golf Travel Marketing within the State.

The Subcommittee received quarterly reports as directed by the Budget Bill from the Natural Resources and Environmental Protection Cabinet. The Cabinet appeared before the Subcommittee to discuss its FB 2000-02 Capital Projects Budget Request and its continuing efforts to curb illegal dumping, cleanup waste tire piles, and restore abandoned mine land areas. Based on testimony about Kentucky's contribution to the Federal Abandoned Mine Land Fund, the Subcommittee sent correspondence to Kentucky's Congressional delegation and other federal officials urging an increased federal budget for this purpose. The Subcommittee also heard a status report from the Kentucky Heritage Land Conservation Fund Board.

The Subcommittee received testimony from the Tourism Development Cabinet regarding the Park Revitalization Bond projects, the Tourism Development Act, and an overview of the Cabinet's Capital Projects Budget request for FB 2000-02.

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

The Budget Review Committee on Education has met three times during the interim, including a joint hearing with the Subcommittee on Postsecondary Education of the Interim Committee on Education.

The Subcommittee discussed various areas related to implementation of the Postsecondary Education Improvement Act of 1997, principally the Funding Model and related issues such as the benchmarking process, incentive funding, and enrollment projections.

The Subcommittee met to address issues related to the interpretation of the percentage increase allowed for cost-of-living adjustments (COLA) for teachers in FY 1999-2000 as provided in legislation enacted by the 1998 General Assembly (HB 469 and HB 321, the 1998-2000 Appropriation Act). The Subcommittee toured the new Kentucky

History Center and heard testimony concerning the fiscal requirement necessary for the operation of the Center for the 2000-2002 Biennium.

The Subcommittee reviewed and recommended for approval by the Interim Joint Committee on Appropriations and Revenue 62 interim appropriation increases totaling \$194.8 million during the interim as follows:

<u>FY 1998-99</u>	<u>Restricted</u>	<u>Federal</u>	<u>Total</u>	<u>Total # Requests</u>
<b>Education, Arts and Humanities</b>	\$2,776,900	\$905,600	\$3,682,500	11
<b>Department of Education</b>	162,000	58,604,400	58,766,400	7
<b>Workforce Development Cabinet</b>	6,649,300	22,529,200	29,178,500	10
<b>Postsecondary Education</b>	<u>310,000</u>	<u>0</u>	<u>310,000</u>	<u>1</u>
<b>Total- FY 1998-99</b>	<b>\$9,898,200</b>	<b>\$82,039,200</b>	<b>\$91,937,400</b>	<b>29</b>
 <u>FY 1999-2000</u>				
<b>Education, Arts and Humanities</b>	\$2,594,800	\$2,076,200	\$4,671,000	16
<b>Department of Education</b>	1,800,000	66,500,000	68,300,000	5
<b>Workforce Development Cabinet</b>	9,049,800	19,163,400	28,213,200	11
<b>Postsecondary Education</b>	<u>0</u>	<u>1,715,500</u>	<u>1,715,500</u>	<u>1</u>
<b>Total- FY 1999-2000</b>	<b>\$13,444,600</b>	<b>\$89,455,100</b>	<b>\$102,899,700</b>	<b>33</b>
 <b>Grand Total-1998-99 Interim</b>	 <b>\$23,342,800</b>	 <b>\$171,494,300</b>	 <b>\$194,837,100</b>	 <b>62</b>

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

The Budget Review Subcommittee on Human Resources met ten times during the interim and may have additional meetings prior to the 2000 Session.

**Cabinet for Families and Children.** Per 1998 House Bill 321, budget revisions for the Cabinet for Families and Children (CFC) resulted in \$85.4 million in FY 1998-99 above the Enacted Budgets. Of the \$85.4 million, \$80.8 million were transfers from other agencies and not additional dollars. Included in the \$85.4 million are: a) \$51.9 million General Fund dollars, of which \$40.6 million is Family Youth Resource Center dollars budgeted in the Department of Education; b) -\$6.7 million Restricted Funds mostly due to the transfer of Aging Services to the Cabinet for Health Services; and c) \$40.2 million Federal Funds, of which \$13.8 million is due to the transfer of Disability Determinations from the Cabinet for Health Services.

**Cabinet for Health Services.** Per 1998 House Bill 321, budget revisions for the Cabinet for Health Services (CHS) resulted in \$46 million in FY 1998-99 above the

Enacted Budgets. Included are: a) \$8.1 million General Fund dollars due to the transfer of Aging Services from CFC; b) \$25.1 million Restricted Funds mostly due to the transfers of Aging Services from CFC and the Kentucky Children's Health Insurance Program (KCHIP) from Administrative Services to Medicaid Services; and c) \$12.8 million net Federal Funds resulting from \$26.6 million increases, mostly due to the transfers of Aging Services from CFC and KCHIP from Administrative Services to Medicaid Services, and a -\$13.8 million decrease due to the transfer of Disability Determinations to CFC.

As of October 1999, budget revisions for the Cabinet for Families and Children resulted in \$123 million in FY 1999-2000 above the Enacted Budgets. Of the \$123 million, \$43.5 million were transfers for other agencies and not additional dollars. Included in the \$123 million are: a) \$60.3 million General Fund dollars, of which \$43.5 million is Family Youth Resource Center dollars budgeted in the Department of Education and \$16.8 million carry forward authorized in 1998 House Bill 321; b) \$4,000 Restricted Funds; and c) \$62.7 million Federal Funds, including \$54.6 million in October 1999 from Welfare to Work, Social Services Block Grant, Child Care Development Grant, and Foster Care.

As of October 1999, budget revisions for the Cabinet for Health Services resulted in \$61.4 million in FY 1999-2000 above the Enacted Budgets. Included are: a) \$297,000 General Fund dollars from carryforward funds for the prescription tracking system; b) \$29.6 million Restricted Funds, including \$13.9 million in Medicaid-Administration in August 1999 due to the transfer of the Kentucky Children's Health Insurance Program (KCHIP) from Administrative Services and \$11.7 million in the Department for Mental Health/Mental Retardation (MH/MR) from the Brain Injury Trust Fund; additional Medicaid dollars for the Kentucky Early Intervention Services (KEIS) Program and carryforward dollars from FY 1998-99; and c) \$31.4 million Federal Funds, including \$8.2 million in Medicaid-Administration in October 1999 due to an increased grant, \$9 million in MH/MR due to increased and carryforward grants, and \$13 million in the Department for Public Health due to new or increased grants and a transfer from CFC for the Kentucky Physicians Program.

The net effect on each department is as follows:

<b><u>Cabinet for Families and Children (CFC)</u></b>	<b><u>FY 1998-99</u></b>	<b><u>FY 1999- 2000</u></b>
		as of 10/97
Administration Services	\$ (6,200)	
Disability Determinations (DD) (transfer from CHS)	14,133,100	
Aging Services	(21,395,400)	
Community Based Services	51,541,800	79,158,900
Family Youth Resource Centers (FYRSC)	<u>41,121,900</u>	<u>43,829,500</u>
<b>Total CFC</b>	<b><u>\$85,395,200</u></b>	<b><u>\$122,988,400</u></b>

Note: Actual CFC increase excluding FYRSC and reorganizations (DD and Aging) \$51.5 million \$79.2 million

**Cabinet for Health Services (CHS)**

Administrative Support	\$(49,324,800)	\$(49,532,500)
Public Health (DPH).	674,400	13,534,700
Mental Health/Mental Retardation	5,949,000	20,221,500
Medicaid-Administration	22,412,300	18,350,000
Medicaid-Benefits	44,155,500	57,710,200
Commission for Children with Special Health Care Needs	430,900	773,200
Aging Services	<u>21,693,200</u>	<u>314,000</u>
<b>Total CHS</b>	<b>\$45,990,500</b>	<b>\$61,371,100</b>
 <b>Total CFC and CHS</b>	 <b>\$131,385,700</b>	 <b>\$184,359,500</b>

Most meetings included discussions/presentations related to the Medicaid program. Topics included were: Medicaid Managed Care and the Public Health Departments; Region 3 Partnership; Behavioral Health Waiver; Financing Partnership start up costs, and loss of De-link/Outreach dollars (related to Welfare Reform).

Other topics included: CFC Fiscal Briefing; CHS Fiscal Briefing; Association for Retarded Citizens; Welfare Reform, including postsecondary education and Transitional Assistance to Needy Families (TANF) surplus; Community based facilities for the Mentally Retarded/Developmentally Disabled and Central State Hospital (Tours); Children in Placement Strategic Plan; CFC Personnel/Positions update; K-CHIP; Public Health Departments Deficit; and Community Living Waiver waiting list.

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

The Budget Review Subcommittee on Justice, Corrections, and Judiciary has met nine times during the 1998-99 Interim. Discussions at these meetings have included the following topics: the Super-Max Facility at the Kentucky State Penitentiary; staff overview of the FB 1998-2000 Judicial Branch and Justice Cabinet Budgets; Judicial Branch and Justice Cabinet Capital Budgets; discussion of Family Courts; Department of Corrections' inmate population and bed needs and the utilization of county jail beds; status of the Department of Juvenile Justice's 1998-2000 Budget; activities of the Kentucky Criminal Justice Council; status of the Department of Correction's 1998-2000 budget; discussion of the implementation status and fiscal impact of HB 455; and the Kentucky Court Appointed Special Advocate (CASA) Program.

**Department of Corrections.** The Department of Corrections consists of Corrections Management, Adult Institutions, Community Services and Local Facilities, and the Local Jail Support Program appropriation units. In the current biennium, five

appropriation increase requests were approved in FY 1998-99 (\$720,000 in Restricted Funds and \$1,652,000 in Federal Funds) totaling \$2,372,000. In FY 1999-00, four appropriation increase requests have been approved to date (\$2,148,000 in Restricted Funds and \$175,000 in Federal Funds) totaling \$2,323,000. These appropriation increase requests are summarized by appropriation unit below:

<u>Appropriation Unit</u>	<u>FY 1998-99</u>		<u>FY 1999-00</u>	
	<u>Restricted</u>	<u>Federal</u>	<u>Restricted</u>	<u>Federal</u>
Corrections Management		\$65,600	\$100,000	
Number of AI Requests		(1)	(1)	
Community Services and Local Facilities	\$120,000	487,700	300,000	
Number of AI Requests	(1)	(1)	(1)	
Adult Institutions	600,000	1,098,700	1,748,000	\$175,000
Number of AI Requests	(1)	(1)	(1)	(1)
<b>Total by Fund Source</b>	<b>\$720,000</b>	<b>\$1,652,000</b>	<b>\$2,148,000</b>	<b>\$175,000</b>
<b>Total No. of AI Requests by Fund Source</b>	<b>(2)</b>	<b>(3)</b>	<b>(3)</b>	<b>(1)</b>

**Justice Operations.** Justice Operations consists of Justice Administration (Office of the Secretary), Department of Juvenile Justice, State Police, and the Department of Criminal Justice Training. In the current biennium, two appropriation increase requests totaling \$5,664,700 in Federal Funds were approved in FY 1998-99. In FY 1999-00, seven appropriation increase requests have been approved to date (\$14,643,300 in Restricted Funds and \$8,161,000 in Federal Funds) totaling \$22,804,300. These appropriation increase requests are summarized by appropriation unit below:

<u>Appropriation Unit</u>	<u>FY 1998-99</u>		<u>FY 1999-00</u>	
	<u>Federal</u>	<u>Restricted</u>	<u>Restricted</u>	<u>Federal</u>
Justice Administration			\$430,000	\$90,000
Number of AI Requests			(2)	(1)
Juvenile Justice	\$2,512,500	9,000,000	6,700,000	
Number of AI Requests	(1)	(1)	(1)	(1)
State Police	3,152,200	5,213,300		
Number of AI Requests	(1)	(1)		
Criminal Justice Training				1,371,000
Number of AI Requests				(1)
<b>Total by Fund Source</b>	<b>\$5,664,700</b>	<b>\$14,643,300</b>	<b>\$8,161,000</b>	
<b>Total No. of AI Requests by Fund Source</b>	<b>(2)</b>	<b>(4)</b>	<b>(4)</b>	<b>(3)</b>

**Budget Review Subcommittee on  
Transportation**

The Budget Review Subcommittee on Transportation has met ten times during the 1998-99 Interim. Discussion at these meetings have consisted of the following topics: Federal-Aid Financing Workshop; Public Transportation (including Human Services Transportation Delivery Program); the impact of TEA-21 (new federal highway legislation) on Kentucky; review of the processes used by the Transportation Cabinet to get a highway project from start to finish; Rural and Municipal Road Aid expenditures; Airport projects and funding; and the Empower Kentucky projects.

The Transportation Cabinet is comprised of the Departments of Highways, Rural and Municipal Aid, and Vehicle Regulation; General Administration and Support; Debt Service; Public and Air Transportation; and Rail Transportation. In the current biennium, four appropriation increase requests were approved in FY 1998-99 (\$350,000 in Restricted Funds and \$65,356,800 in Federal Funds) totaling \$65,391,800. There have been no appropriation increases (to date) in FY 1999-2000. These appropriation increase requests are summarized by appropriation unit below:

<u><b>Appropriation Unit</b></u>	<u><b>FY 1998-99</b></u>	
	<u><b>Restricted</b></u>	<u><b>Federal</b></u>
Vehicle Regulation	\$300,000	\$1,672,100
Number of AI Requests	(1)	(1)
Highways		63,684,700
Number of AI Requests		(1)
General Administration and Support	50,000	
Number of AI Requests	(1)	
<b>Total by Fund Source</b>	<u><b>\$350,000</b></u>	<u><b>\$65,356,800</b></u>
<b>Total No. of AI Requests by Fund Source</b>	<b>(2)</b>	<b>(2)</b>

**REPORT OF THE 1998-99  
INTERIM JOINT COMMITTEE ON  
BANKING AND INSURANCE**

**Sen. Tom Buford, Co-Chair**

**Rep. James Bruce, Co-Chair**

Sen. Ernie Harris

Sen. Bob Leeper

Sen. Joey Pendleton

Sen. Richard Roeding

Sen. Dan Seum

Rep. John Adams

Rep. Stan Cave

Rep. Ron Crimm

Rep. Charles Geveden

Rep. Susan Johns

Rep. Billy Polston

Rep. Steven Riggs

Rep. Dottie Sims

Rep. Ken Upchurch

Sen. Bob Jackson

Sen. Marshall Long

Sen. Albert Robinson

Sen. Richie Sanders

Sen. Robert Stivers

Rep. Sheldon Baugh

Rep. Brian Crall

Rep. Robert Damron

Rep. Jim Gooch

Rep. R.J. Palmer

Rep. Frank Rasche

Rep. Arnold Simpson

Rep. Roger Thomas

Rep. Rob Wilkey

LRC STAFF: Greg Freedman, Judy Fritz, and Jamie Griffin

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**

**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**SUBCOMMITTEE ON HEALTH INSURANCE**

**Sen. Richard Roeding, Co-Chair**

**Rep. Jim Gooch, Co-Chair**

Sen. Bob Jackson

Rep. Sheldon Baugh

Rep. Ron Crimm

Rep. Steve Riggs

Sen. Dan Seum

Rep. Ira Branham

Rep. Bob Damron

**Sen. Tom Buford, Ex Officio**

**Rep. James Bruce, Ex Officio**

## **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 has held fifteen meetings during the 1998-99 Interim as of October 31, 1999, and will hold its sixteenth meeting on November 30, 1999.

At its first meeting, held on June 25, 1998, the Committee discussed topics to be considered during the interim and approved an administrative regulation pertaining to securities. On July 27, 1998, the Committee held its second meeting and discussed health insurance rate filings and the termination of offering Kentucky Kare coverage to non-state employees.

On August 31, 1998, the Committee held its third meeting in Louisville in conjunction with the Annual Kentucky Bankers Association Convention. A professor from the University of Louisville spoke on the factors that influence the formation and retention of financial services firms. The Committee also heard from a banker on branch banking in Kentucky.

The Committee held its fourth meeting on September 22, 1998, and discussed the decision by the executive branch to stop the operation of Kentucky Kare as a self-insured program for state employees. The Committee heard from several executive branch officials and representatives of two state employee groups. The Commissioner of Insurance discussed the small group and individual markets.

The fifth meeting of the Committee was held on October 27, 1998. The Committee discussed health insurance with representatives of Humana and Anthem. The Committee was told that beginning July 1, 1998, Humana commenced offering individual health insurance policies in all 120 counties. Humana made that commitment to the 1998 General Assembly during discussions on HB 315. The Committee discussed with Anthem its Coronary Services Network Program. Anthem contends that their coronary services network does not meet the definition of provider network in HB 315 and therefore the 30 miles/30 minutes provision is not applicable.

On November 24, 1998, the Committee discussed the status of Kentucky Kare and the Kentucky Health Purchasing Alliance with the Secretary of the Finance and Administration Cabinet, the Commissioner of the Department of Insurance, the Executive Director of Kentucky Kare, the Executive Director of the Alliance, and the Auditor of Public Accounts.

The Commissioner of the Department of Financial Institutions addressed the Committee on December 22, 1998, on the state of banking in Kentucky. Seventy percent of Kentucky banks have assets below \$100 million. The Director of the Division of Securities gave an update on regulation of securities in the Commonwealth.

The Committee's eighth meeting was held on January 26, 1999. The Commissioner of the Department of Insurance spoke on an executive order creating the Division of Health Insurance Policy and Managed Care, a representative of a health insurance company told the Committee why his company had not returned to the Kentucky health insurance market, and the Executive Director of the Kentucky Association for State Employees spoke on health insurance concerns of state employees.

On February 23, 1999, the Kentucky Bankers Association addressed the Committee on its concerns about a regulation proposed by the Department of Libraries and Archives on standards for documents presented for filing and also spoke on the federal "Know Your Customer Act" proposed by several federal banking agencies. The Committee adopted a resolution urging the federal agencies to withdraw the proposal.

At its tenth meeting on March 23, 1999, the Committee discussed the Request for Proposals for the state health insurance contract with the Secretary of the Personnel Cabinet and received an update from the Commissioner of the Department of Insurance on a lawsuit filed by the Department against United Chambers.

On May 27, 1999, the Committee discussed the deferred deposit business in Kentucky with the Commissioner of the Department of Financial Institutions. On June 22, 1999, the Committee heard from the Commissioner of the Department of Insurance on the proposal by Aetna to require health care providers in Jefferson County who participated in any Aetna plan to participate in all Aetna plans. On August 24, 1999, the Committee met in Louisville at PNC Bank and discussed banking in Kentucky and the future of electronic banking. On September 28, 1999, the Committee heard complaints from an insured about the denial of coverage of services by an HMO. The Committee also heard from an LRC staff economist on the health insurance market for state employees and retirees.

The Committee held its fifteenth meeting on October 26, 1999. The Committee heard testimony on business practices of health insurers that health care providers stated result in creating cash flow problems for them and increased overhead expenses. These practices include the denial of receiving a claim sent to the insurer by a provider, delay in payment to providers, and downcoding of services rendered.

The Committee will meet on November 30, 1999, to take up prefiled bills which include measures on external review of health insurance claims, deregulation of commercial lines of insurance, appointment of insurance agents, and automobile household exclusion.

### **Subcommittee on Health Insurance**

The Subcommittee on Health Insurance held ten meetings during the 1998-99 Interim.

After an organizational meeting held on November 24, 1998, the Subcommittee met on December 22, 1998, and discussed information gathered by staff, the Department of Insurance, and the Personnel Cabinet. The Subcommittee was also addressed by the Secretary of the Personnel Cabinet.

The Subcommittee held its third meeting on February 23, 1999. A representative of Golden Rule Insurance Company spoke on concerns about Kentucky's current health insurance law and recommended changes to make it more attractive to out-of-state health insurers. The Commissioner of the Department of Insurance spoke on problems with an HMO's operations in western Kentucky.

On March 23, 1999, the Subcommittee discussed Kentucky's health insurance law with representatives of the Health Insurance Association of America and American Medical Security Insurance Company. On April 27, 1999, representatives of Humana and Anthem discussed Kentucky's health insurance laws, the Commissioner of the Department of Insurance gave an update on the problems with an HMO's operations in western Kentucky, a representative of the Kentucky Pharmacy Association spoke against a proposal that state employees be reimbursed for mail order prescriptions, and the Secretary of the Personnel Cabinet spoke on the Request for Proposals provision on mail order prescriptions.

At its sixth meeting held on May 28, 1999, the Subcommittee received an update from the Secretary of the Personnel Cabinet on the Request for Proposals for the state health insurance contract. The Subcommittee also heard from representatives of high risk pools in Illinois, Mississippi, and Louisiana. On June 22, 1999, the Commissioner of the Department of Insurance spoke on implementation of several provisions in HB 315.

On August 31, 1999, the Secretary of the Personnel Cabinet addressed the Subcommittee on the new health insurance contract for state employees. The Subcommittee discussed health insurance cost drivers with the Commissioner of the Department of Insurance and representatives of insurance companies, consumers, associations, and the Health Insurance Association of America.

On September 28, 1999, the Subcommittee discussed the Kentucky Children's Health Insurance Program (KCHIP) with the Deputy Secretary of the Cabinet for Health

Services. On October 26, 1999, the Committee discussed several health insurance issues with the Commissioner of the Department of Insurance, including guaranteed issue, high risk pool, rate bands, mandatory benefits, guaranteed loss ratio, and external review process.

**REPORT OF THE 1998-99  
INTERIM JOINT COMMITTEE ON  
ECONOMIC DEVELOPMENT AND TOURISM**

**Sen. Glenn Freeman, Co-Chair**

**Rep. Tom Kerr, Co-Chair**

Sen. Dick Adams  
Sen. Charlie Borders  
Sen. Gary Johnson  
Sen. Virgil Moore  
Sen. Dan Seum  
Rep. Royce Adams  
Rep. Hoby Anderson  
Rep. Eddie Ballard  
Rep. John Bowling  
Rep. Buddy Buckingham  
Rep. Perry Clark  
Rep. Jesse Crenshaw  
Rep. Joseph Fischer  
Rep. Gippy Graham  
Rep. Jodie Haydon  
Rep. Gross Lindsay  
Rep. Ruth Ann Palumbo  
Rep. Chris Ratliff  
Rep. Gary Tapp  
Rep. Johnnie Turner  
Rep. Charles Walton  
Rep. Robin Webb

Sen. Walter Blevins  
Sen. David Boswell  
Sen. Vernie McGaha  
Sen. Dick Roeding  
Sen. Katie Stine  
Rep. Scott Alexander  
Rep. Bo Ausmus  
Rep. Carolyn Belcher  
Rep. Kevin Bratcher  
Rep. Philip Childers  
Rep. Howard Cornett  
Rep. Tim Feeley  
Rep. Danny Ford  
Rep. J.R. Gray  
Rep. Dennis Horlander  
Rep. Thomas McKee  
Rep. Marie Rader  
Rep. Tom Riner  
Rep. Jim Thompson  
Rep. Ken Upchurch  
Rep. Mike Weaver

LRC STAFF: Mary C. Yaeger, John Buckner, Kim Wilson, and Ellen Steinberg

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**

**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**SUBCOMMITTEE ON SMALL BUSINESS REGULATION**

**Sen. Walter Blevins, Co-Chair**  
**Rep. Ruth Ann Palumbo, Co-Chair**

Sen. Dick Adams  
Sen. Dick Roeding  
Rep. John Bowling  
Rep. Tim Feeley  
Rep. Gary Tapp

Sen. Virgil Moore  
Sen. Dan Seum  
Rep. Buddy Buckingham  
Rep. Marie Rader  
Rep. Mike Weaver

**Sen. Glenn Freeman, Ex-Officio**  
**Rep. Tom Kerr, Ex-Officio**

**TASK FORCE ON ECONOMIC DEVELOPMENT**

**Rep. Ruth Ann Palumbo, Chair**

Rep. Scott Alexander  
Rep. Bo Ausmus  
Rep. Buddy Buckingham  
Rep. Howard Cornett  
Rep. Tim Feeley  
Rep. Dennis Horlander  
Rep. Marie Rader  
Rep. Tom Riner  
Rep. Jim Thompson  
Rep. Charles Walton

Rep. Hoby Anderson  
Rep. John Bowling  
Rep. Perry Clark  
Rep. Jesse Crenshaw  
Rep. Joseph Fischer  
Rep. Gross Lindsay  
Rep. Chris Ratliff  
Rep. Gary Tapp  
Rep. Ken Upchurch  
Rep. Mike Weaver

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

**JURISDICTION:** matters pertaining to commerce, industry, and economic and industrial development not specifically assigned to another committee; economic development planning, international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; advertising related to tourism development; state, interstate, and national parks and historic sites; travel promotion, advertising and developments; state, interstate, and national parks and historic sites; fish and wildlife; small business matters relative to tourism development; hotels and motels generally; hotel and restaurant regulations; billboards; entertainment establishments; campgrounds; the Tourism Cabinet.

### **COMMITTEE ACTIVITY**

During the 1998-99 Interim, the Interim Joint Committee on Economic Development and Tourism held six meetings, including one meeting in 1998 and five meetings in 1999.

The Committee was organized into one subcommittee, the Subcommittee on Small Business Regulation, and one task force, the Task Force on Economic Development.

Major topics before the Interim Joint Committee on Economic Development and Tourism included the Kentucky Wood Products Competitiveness Corporation; the structure and programs of the Cabinet for Economic Development; the Regional Industrial Development Parks funded by coal severance revenues; East and West Kentucky Corporations; the Department of Parks and Film Office programs within the Kentucky Tourism Development Cabinet; a report of the 1998 HCR 119 pertaining to off-premise advertising devices adjacent to Federal interstate highways and responses from the Transportation Cabinet and the Outdoor Advertising Association of Kentucky; and a tax incentive proposal by the Northern Kentucky Chamber of Commerce.

In performing its statutory legislative oversight responsibilities, the Committee reviewed and approved 307 KAR 6:010 regarding the Kentucky Investment Fund Act.

The Committee reviewed and approved the following Executive Orders and Resolutions of the Kentucky Economic Development Partnership: Executive Order 98-1020 amended by 98-1144 establishing the Eastern Kentucky Exposition Center

Corporation; Executive Order 98-1025 amended by 98-1143 regarding the Fed Fox Tri-County Cooperative Corporation; Executive Order 99-331 establishing the Appalachian/Kentucky Artisans Gateway Center Authority; and Resolution No. 99-1 changing the name of the Department of Job Development to the Department for Business Development within the Cabinet for Economic Development.

At its August 1999 meeting, the Committee adopted a resolution to be forwarded to Carol Palmore, Secretary of the Personnel Cabinet, urging state government not to seek mail-order pharmacy as a component in health plans for state employees, teachers, and Medicare-eligible retirees for the 2000 policy year.

At its September 1999 meeting, the Committee received the Special Task Force Study on the Feasibility of Rails to Trails (1998 HCR 77). At the last meeting, in October 1999, the Committee received the final report of the Task Force on Funding for Tourism Development (1998 SCR 88). Additionally the Committee accepted the following reports: the report of the Subcommittee on Small Business Regulation (1998 HB 780); the report of the Special Task Force on Fishtrap Lake (1998 HCR 125); and the report relating to Off-Premise Advertising Devices Adjacent to Federal Interstate Highways (1998 HCR 119).

At its September 1999 meeting, the Committee approved BR 117 as prefiled with a recommendation for passage by the Interim Joint Committee. BR 117 amends the Kentucky Tourism Development Act by allowing lodging costs to exceed 50% of the total project costs if the facility incorporates a historic structure.

At its October 1999 meeting, the Committee approved BR 528, BR 327, and BR 280 as prefiled with a recommendation for passage by the Interim Joint Committee. BR 528 is an Act relating to reorganization, and creates the Appalachian/Kentucky Artisans Gateway Center Authority. BR 327 is an Act related to economic development that extends Kentucky Rural Economic Development Assistance to companies for a second year rather than one year, following the year in which the Authority decertifies a county. BR 280 is an Act relating to revenue and taxation, which provides a direct business investment tax credit for firms that purchase qualified property or structures and are not otherwise eligible for incentives under KRS Chapter 154.

### **Subcommittee on Small Business Regulation and the Task Force on Economic Development**

During the 1998-99 Interim, the Subcommittee on Small Business Regulation and the Task Force on Economic Development each held ten meetings. Seven of those meetings were joint meetings of the Subcommittee and the Task Force.

At the three meetings the Subcommittee on Small Business Regulation held separately from the Task Force on Economic Development, the Chairman of the Small Business Regulatory Enforcement Fairness Board, Region IV, gave a presentation of the

Federal Small Business Regulatory Enforcement Fairness Act (SBREFA) and suggested direction for the Subcommittee. The Subcommittee received a progress report on the Secretary of State's One-Stop Business Licensing Program, learned about the Kentucky Business Environmental Assistance Program (KBEAP), and heard from the Department of Community Development of the Cabinet for Economic Development about their small business initiatives.

At the three meetings that the Task Force on Economic Development held separately from the Subcommittee on Small Business Regulation, the Task Force heard from the following groups: the Kentucky Technology Services, Inc.; the Kentucky Quality Council; the Kentucky Coal Council; the Kentucky League of Cities; the Kentucky Long-Term Policy Research Center; and the Kentucky Science and Technology Corporation.

At the seven joint meetings of the Subcommittee and the Task Force, the members heard from a variety of industry representatives concerning topics relating to difficulties encountered by small businesses. These representatives included: the National Federation of Independent Businesses; the Kentucky Chamber of Commerce; the Associated Industries of Kentucky; the Louisville Chapter of the National Association of Women Business Owners; the Center for Entrepreneurship and the Kentucky Small Business Center Network; and the Women's Initiative Networking Group. Additionally, the Subcommittee and the Task Force learned about the Administrative Regulatory process required in KRS Chapter 13A and the use of tiering as a way to curtail unnecessary regulations on small businesses.

At its March 1999 meeting, the Subcommittee and Task Force approved a letter to be sent to the Governor asking him to seriously consider establishing an Advisory Council for Women's Business Issues.

At the May 1999 joint meeting of the Subcommittee and Task Force, a motion was made to encourage the Kentucky Lottery Corporation to defer any expansion into new forms of gaming until the General Assembly could examine the issue. This motion was approved by the Task Force on Economic Development.

The June 1999 meeting included descriptions of what other states were doing to assist small businesses. These presentations included a video conference with the Board of Directors of the Unified Business Identifier System in the state of Washington and a presentation by a representative of the Small Business Advocate program in the state of Arizona.

Additionally in June, the Kentucky Natural Resources and Environmental Protection Cabinet presented information on assistance the Cabinet provides for small businesses in each of its Departments.

The September 1999 meeting revisited a number of issues by inviting previous speakers to summarize some of their significant observations. This meeting also provided survey data collected and presented by the University of Kentucky Center for Entrepreneurship on issues and challenges facing Kentucky businesses. LRC staff also presented the results of a small business survey and an association survey conducted earlier in the Interim.

At its October 1999 meeting, the Subcommittee and Task Force approved a final report with recommendations to be forwarded to the full Interim Joint Committee. The Subcommittee and Task Force requested permission to continue meeting in November and December to refine report recommendations into possible legislative proposals for the 2000 Regular Session of the General Assembly.

**REPORT OF THE 1998-99  
INTERIM JOINT COMMITTEE ON EDUCATION**

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

Sen. Benny Ray Bailey  
Rep. Larry Belcher  
Rep. Robert Buckingham  
Rep. Mike Cherry  
Rep. Jack Coleman, Jr.  
Rep. Hubert Collins  
Rep. Barbara Colter  
Rep. Jon Draud  
Rep. Tim Feeley  
Rep. H. "Gippy" Graham  
Sen. Brett Guthrie  
Sen. David Karem  
Sen. Alice Forgy Kerr  
Rep. Tom Kerr  
Sen. Vernon McGaha  
Rep. Mary Lou Marzian

Rep. Charles Miller  
Rep. Harry Moberly  
Sen. Gerald Neal  
Rep. Tom Riner  
Sen. Ernesto Scorsone  
Sen. Dale ShROUT  
Rep. Charles Siler  
Rep. Arnold Simpson  
Rep. Dottie Sims  
Sen. Kathy Stein  
Sen. Robert Stivers  
Rep. Gary Tapp  
Rep. Jim Thompson  
Rep. Mark Treesh  
Rep. Charles Walton  
Sen. Jack Westwood

LRC STAFF: Sandra Deaton, Ethel Alston, Audrey Carr, Jonathan Lowe,  
Lora Hawkins, and Donna Jarrell.

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**

**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**SUBCOMMITTEE ON ELEMENTARY AND SECONDARY EDUCATION**

**Sen. Vernon McGaha, Co-Chair**  
**Sen. Gerald Neal, Co-Chair**  
**Rep. Jack Coleman, Co-Chair**

Rep. Larry Belcher  
Rep. Mike Cherry  
Rep. Hubert Collins  
Rep. Barbara Colter  
Rep. H. "Gippy" Graham  
Sen. David Karem  
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Sen. Dale Shrout  
Rep. Gary Tapp  
Rep. Jim Thompson  
Rep. Charles Walton  
Sen. Jack Westwood

**Sen. Lindy Casebier, Ex-Officio**  
**Sen. Robert L. Jackson, Ex-Officio**  
**Rep. Frank Rasche, Ex-Officio**

**SUBCOMMITTEE ON POSTSECONDARY EDUCATION**

**Sen. Ernesto Scorsone, Co-Chair**  
**Sen. Robert Stivers, Co-Chair**  
**Rep. Mary Lou Marzian, Co-Chair**

Sen. Benny Ray Bailey  
Rep. Robert "Buddy" Buckingham  
Rep. Jon Draud  
Rep. Tim Feeley  
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Rep. Kathy Stein  
Rep. Mark Treesh

**Sen. Lindy Casebier, Ex-Officio**  
**Sen. Robert L. Jackson, Ex-Officio**  
**Rep. Frank Rasche, Ex-Officio**

## **INTERIM JOINT COMMITTEE ON EDUCATION**

**JURISDICTION:** matters pertaining to elementary, secondary and postsecondary education; the Kentucky Board of Education; the Department of Education; the powers and duties of local boards of education; state support of education; operation of school districts; conduct of schools; attendance; curriculum; pupil transportation; school property; teachers' qualifications, certification, and retirement; the arts and humanities; educating the workforce; state and independent universities and colleges; community colleges; and technical institutions.

### **COMMITTEE ACTIVITY**

The Interim Joint Committee on Education met fifteen times prior to October 31, 1999. With the approval of the Legislative Research Commission, it met in November, primarily to receive reports from the Office of Education Accountability, the Task Force on Teacher Quality, and the report on the study of instructional practices for deaf and hard of hearing students as required by SR 164 of the 1998 session of the General Assembly.

The Committee was organized into two subcommittees: Elementary and Secondary Education and Postsecondary Education. Following is a summary of activity of the full Committee and each Subcommittee.

Major topics before the Interim Joint Committee on Education were the Commonwealth Accountability Testing System (CATS), including quarterly reports on the development of the new testing and accountability system and a report of the 1998 and 1999 test results; the Metropolitan College; the special education paperwork study report required by House Bill 519 (1998); the Kentucky Education Technology System; the Kentucky Commonwealth Virtual University; the Kentucky Community and Technical College System; early childhood education; postsecondary education funding guidelines; secondary school improvement; school safety; adult education; and regular reports from the Office of Education Accountability. The committee visited the Daviess County Public Schools and the Governor's Scholars Program at Centre College, Danville, Kentucky.

The committee received regular reports from the Office of Education Accountability. It also reviewed three executive orders and 95 administrative regulations.

#### **Subcommittee on Elementary and Secondary Education**

The Subcommittee on Elementary and Secondary Education selected topics of interest for investigation during the 1998-99 Interim and conducted twelve meetings considering the following issues:

## **Curriculum: Program of Studies for Kentucky Schools**

Representatives of the Division of Curriculum and Assessment Development of the Kentucky Department of Education explained that the purpose of the 1997 revision of the *Program of Studies for Kentucky Schools, Grades Primary – 12* was to ensure that all students across the state are provided with common content and have opportunities to learn at high levels. Minimum content for the required credits for high school graduation is also outlined. Other curriculum guides include: *The Implementation Manual for the Program of Studies*, which provides educators with guidance on organizing course content; *Transformations: Kentucky's Curriculum Framework*, which ties national standards to the state's academic expectations; and *The Core Content for Assessment*, which provides a guide to what subject matter will be assessed.

The Assistant Superintendent for Curriculum, Woodford County Public Schools, addressed the Subcommittee on the utility of the *Program of Studies* and the accompanying guides and emphasized that the guides are valuable resources that permit teachers and schools to develop their own curriculum and are used across the different academic disciplines to meet the various and complex needs of their student populations.

### **Planning and Preparation Time for Teachers**

The discussion on the adequacy of planning and preparation time for teachers included testimony of teachers and school district administrators. A middle school teacher in the Oldham County Public Schools informed the Subcommittee that Oldham County had attained more planning time for teachers by implementing block scheduling in middle and high schools, and encouraging collaboration of teachers during and outside the school day. A lead teacher at The Academy at Lexington described the benefits of extending the school year for teachers; requiring teachers to have rich course content knowledge; and conducting professional development in association with university and corporate experts.

Descriptions of Jefferson County Public Schools' strategies for teacher preparation and planning for the 21st century incorporated in *Beyond 2000 Vision* were explained. Additional paid workdays for planning, parent conferences, and professional development were added to the 1998-99 school calendar. Also, six elementary schools operated as year-round schools and the middle and high schools have extended the school day by ten minutes. The view of the Kentucky Education Association was described and several recommendations were offered on allocating financial resources to provide planning time, extending teacher contracts beyond the 185-day calendar, and developing a compensation plan based on the value for work performed.

### **School-Based Decision Making Councils (SBDM)**

Superintendents and principals from around the state testified on the advantages of school-based decision making councils and offered suggestions for improving the system of local governance. The consensus of the participants was that SBDM has been effective

and councils are making progress in providing school environments that enhance student achievement. As of August 1999, 1224 SBDM councils are in operation.

The participants strongly suggested that in-depth training for council members in policymaking, instruction-focused programs, and the principal selection process were essential. The Subcommittee also heard testimony regarding the changing role of principals; involvement of parents; and the availability of technical assistance for councils. Concerning the representation of minority principals, teachers, and parents on councils, the Division of Instructional Leadership Development in the Department of Education offered a report that indicated the number of minority principals employed across the state continues to be low, with only 60 principals or 4.89% in 1997-98 school year.

### **Dropout Prevention**

**KRS 159.051 - The No Pass/No Drive Law** –The General Counsel for the Kentucky Department of Education discussed the status of litigation in D.F. v. Kelley, Calloway County School Board, et. al. concerning the constitutionality of KRS 159.051, the No Pass/No Drive law. In 1995, a Calloway County parent of a 16-year-old whose license was suspended under the program filed suit against the Transportation Cabinet, the Kentucky Board of Education, the Commissioner of Education, and Calloway County School District. The Calloway County Circuit Judge issued an opinion that the statute violated the federal Family Education Rights and Purposes Act of 1974 (FERPA). The defendants filed notices of appeal with the Kentucky Court of Appeals, and a hearing has been held requesting emergency relief from the Circuit Court injunction.

The four grounds the court identified as problems in the statute were: 1) sharing of the educational records; 2) punishment of students with learning disabilities; 3) a violation of due process because of no rational connection or relationship between the purpose of the statute and driving a motor vehicle; and 4) violation of equal protection because it applied to some 16- and 17-year-olds and not to others. The Department of Education has requested the agency administering the federal law to respond to possible amendments to the statute to address concerns.

**Prevention Programs** – The Department of Education staff and school administrators explained the problems of students dropping out of school and prevention programs and strategies. Alternative education grants were a part of 1998 House Bill 330 and the department distributed \$4 million in grant funds to support programs in 65 school districts in the 1998-99 school year. Beginning in 1999-2000, the newly-created Center for School Safety will disburse approximately \$9 million to local school districts through a competitive grant process.

In addition, changes in the dropout prevention program were instituted for the 1998-2000 biennium. The department issued grant applications to all school districts and informed them that eight to ten grants would be awarded for the 1998-2000 biennium, with at least one grant awarded in each of the eight service regions to provide program

models around the state. Due to the closeness of the application scores, eleven school districts were chosen to receive grants.

Family problems and after-school program transportation were cited as barriers to student success in poor school districts. Among the recommendations offered by school administrators in dropout prevention are: implementing comprehensive dropout programs that include early identification, continuous intervention, and school and community involvement; full funding for alternative education programs; ensuring that students in the lower grades can read at a certain level before promotion; increasing funding for family resource and youth services centers; and providing vocational programs to sixth and seventh graders and special education students.

### **Education of Exceptional Children**

The Subcommittee spent three meetings addressing aspects of the issue of the education of exceptional children. Department of Education staff described the implementation of 1998 House Bill 519, which established the “Special Education Mentor Program” and required professional development programs to include training for certified and classified personnel on the characteristics and instructional needs of exceptional children. The Subcommittee also received data regarding students with disabilities in public schools. Early exit from schools and unsuccessful transition to adult life are still problems for students with disabilities, as are relatively low levels of achievement on state assessments. A parent of a child with a disability expressed her concerns regarding the lack of access for special education students to a content-based curriculum.

Two parents addressed the Subcommittee regarding problems they had experienced in attempting to receive appropriate educational services for their children. A special education consultant provided testimony on the difficulties presented to special education teachers, particularly in the area of over-regulation and a large paperwork burden. At a time of special education teacher shortages, it is difficult to retain properly trained educators and very hard to recruit new teachers to the field. Department of Education representatives and members of the Regulations Advisory Committee explained efforts to decrease the paperwork burden during the process of revising Kentucky administrative regulations to comply with new federal regulations for the Individuals with Disabilities Education Act of 1997.

The Subcommittee also heard testimony regarding funding for special education through the Support Education Excellence in Kentucky funding program (SEEK) and federal laws. The certification of special education teachers and the workload of special education teachers were also discussed.

## **Commonwealth Accountability Testing System (CATS)**

The Director of the Division of Community Relations, Department of Education, described efforts by the Department for public involvement in the development of the Commonwealth Accountability Testing System (CATS). The director explained that the Department used multiple avenues of communication to allow interested members of the public to participate and respond to the proposed accountability model, including direct mailings; a website with minutes of meetings and feedback forms; letters to public school leaders; a telephone hotline; e-mail; and public hearings.

As of February 2, 1999, the Department had received 460 responses from the public in all regions of Kentucky, including 83 website responses; 167 e-mail responses; 12 letters; 17 telephone comments; and 181 returned feedback sheets. Most of the respondents were teachers, with an average of 16 years of experience. The department provided a summary of the responses they received regarding the accountability model, both positive and negative. The majority of responses were generally positive.

In addition, the director provided a sample of the school report card and a document, "Testing in Kentucky," that would be distributed to all students to take home to their families.

## **Early Literacy**

The Subcommittee heard from the Deputy Commissioner for Learning Support Services and other Department of Education staff regarding the implementation of the early literacy initiatives of Senate Bill 186 (1998). Thirty six grants totaling \$2.3 million were awarded to districts across the state for the 1999-2000 school year, and the second round of grant applications were being reviewed for the 2000-2001 school year.

The director of the Collaborative Center for Literacy Development described the first year activities of the center. The center has begun the process of developing a clearinghouse of information regarding research-based reading programs, setting up a program of research, and providing technical assistance to school districts working to improve reading and writing skills of students.

## **Home Schools**

The Subcommittee also heard testimony relating to home schooling. A grandparent and former educator raised concerns that some students who are being home schooled are not receiving an adequate education. Several representatives from home school associations responded that home schools provide a high quality education for students and that the issue was really about truancy rather than inadequate home schools. A representative of the Directors of Pupil Personnel Association also shared his perspective on the problem. They described a best practices document that had been produced in collaboration with the directors of pupil personnel and the home school associations.

## **Senate Resolution 164 – Educating Students Who are Deaf or Hard Of Hearing**

The Interim Joint Committee on Education assigned to the Subcommittee the study directed by 1998 Senate Resolution 164, concerning the methods of teaching Kentucky's deaf and hard of hearing students to read, write, and calculate to improve literacy and competence. The Subcommittee devoted five meetings to investigate this issue. Based on the testimony received, the Subcommittee adopted a final report and recommendations to be forwarded to the full Interim Joint Committee on Education for consideration. Additionally, the Subcommittee adopted a resolution from the Subcommittee to the Governor's Early Education Task Force urging the Task Force to recommend a program to implement universal infant hearing screening and early intervention services for children who are deaf and hard of hearing.

Having adopted a workplan to conduct the SR 164 study at the first meeting, the Subcommittee heard testimony from a student who is deaf and a school superintendent whose son is deaf regarding the problems facing hearing impaired students, their families, and school systems.

The Program Services Branch Manager from the Division of Exceptional Children Services provided the Subcommittee with information regarding the number of hearing impaired students in public schools, their level of academic achievement, drop-out rates, and data on student transitions to adult life. Department of Education staff reviewed for members the federal and state laws and regulations addressing services for students who are deaf and hard of hearing and provided an overview of state and federal funding for deaf education.

The Subcommittee also heard testimony from representatives of the Kentucky Commission for the Deaf and Hard of Hearing, the Kentucky School for the Deaf, the Louisville Deaf Oral School and the Alexander Graham Bell Association for the Deaf. They stated the problems in providing services for hearing impaired students and offered recommendations for improving educational opportunities. Early diagnosis and intervention were highlighted as key to improving language acquisition for deaf and hard of hearing students. Several presenters advocated the adoption of a universal infant hearing-screening program, as has been adopted by numerous other states. Other issues that were raised included problems of coordination between the various agencies providing services, lack of mental health services for deaf and hard of hearing children and youth, the need for regional, and collaborative programs specializing in deaf education.

A Cabinet for Health Services official provided a description of Kentucky's early intervention programs. Four teachers and administrators from school districts testified regarding the problems that teachers face in providing educational services for students with hearing impairments, which include the recognition of additional disabilities in hearing impaired students, the need for additional assistive technologies, and the need for

professional development and training for teachers working with students who are deaf or hard of hearing.

The Subcommittee also heard testimony from the Executive Director of the Education Professional Standards Board and faculty from the Eastern Kentucky University (EKU) deaf education teacher training program regarding issues of certification and teacher training. A major concern raised regarding certification was that there are no current standards for assessing the proficiency of teachers in communicating with deaf students. The EKU faculty highlighted the need for teachers to be trained in a wide variety of teaching strategies and modes of communication in order to address the different needs of individual students.

Department of Education staff described the implementation of 1998 House Bill 519, which established the “Special Education Mentor Program,” and required professional development programs to include training for certified and classified personnel on the characteristics and instructional needs of exceptional children. The Subcommittee also received data regarding students with disabilities in public schools. Early exit from schools and unsuccessful transition to adult life are still problems for students with disabilities, as are relatively low levels of achievement on state assessments. A parent of a child with a disability expressed her concerns regarding the lack of access for special education students to a content-based curriculum.

### **Subcommittee on Postsecondary Education**

The Subcommittee on Postsecondary Education met eight times, including one joint meeting with the Budget Review Subcommittee on Education, during the interim and considered the following issues:

#### **Governor’s School for the Arts**

Staff from the Education, Arts, and Humanities Cabinet and the Governor's School for the Arts and former students presented an overview of the program. The School for the Arts has served almost 2,100 high school juniors and seniors since its beginning in 1987.

The Governor's School for the Arts is supported annually as follows: General Assembly, \$300,000; private contributions, \$145,600; the Kentucky Center for the Arts Foundation, \$35,000; and in-kind services such as equipment in the amount of \$95,600.

The program allows students from across Kentucky to learn and share their talents, but there is a greater need than current resources can meet. More than 1,100 student applications are received each year for only 165 slots available. Additional funds are needed in order to increase the opportunity for students across the state.

## **Foreign Language Requirements for Admissions into 4-Year Public Institutions in Kentucky**

The Subcommittee on Postsecondary Education heard concerns relating to the non-native language requirement in administrative regulation 13 KAR 2:020, guidelines for admission to the state-supported postsecondary education institutions in Kentucky, beginning with the high school graduates of 2004.

Local school district administrators expressed concerns about the foreign language requirement and the limits it imposes upon students' ability to elect concentrations in the fine arts and vocational education; the ability to find qualified teachers; the drain on resources from other areas that would be necessary to provide the additional staffing; and the concern that most districts were not aware of the proposed regulation as it was going through the process and therefore, missed the opportunity to comment on it before it was adopted. The president of the Kentucky Association for Career and Technical Education also spoke against the regulation primarily because of its impact on scheduling of elective classes. The president of the Association for Teachers of Foreign Language spoke on behalf of the regulation and the need to move forward with its implementation.

The president of the Council on Postsecondary Education presented the rationale for the regulation as a response to the changing global economy, the increased cultural diversity, and the need to develop students who can compete within the changing society. It was noted that there was sufficient time to work out the concerns expressed and to assist students in planning their high school programs to meet the new requirements.

### **Funding of Public Postsecondary Institutions**

The president of the Council on Postsecondary Education kept the Subcommittee informed throughout the interim on the new operating funding guidelines for postsecondary education institutions. Based on current participation rates of undergraduates, retention, and time for students to obtain degrees, current projections indicate Kentucky will have to increase its overall undergraduate enrollment by 80,000 students by 2014 in order to meet the goals of the 1997 postsecondary education reform. Providing services for those students would require an increase in over \$400 million dollars if all things remain constant. The projected increases would require increases in state appropriations and increased revenues from tuition and fees.

As HB 1 (1997) eliminated the specific criteria for a funding formula and created six strategic incentive trust funds, the institutions were provided a base funding level plus inflationary increases during 1996-98. The proposed guidelines will be the basis for funding in the next biennium. The guidelines shift the emphasis from an enrollment driven formula to one that provides for multi-criteria with some criteria focused on output measures. The guidelines also provide for benchmarking institutions in Kentucky against similar institutions throughout the U.S.

The new funding system establishes a benchmarking process for each institution against 24 similar public institutions, including quantitative as well as some qualitative measures. For example, the size of the institutions, the funding levels, the programs, and missions of the institutions were considered in the process. During the process, funding objectives will be determined relative to the benchmark institutions. Each university will be expected to generate at least 33% of its funding level through tuition and fees and the Kentucky Community and Technical College System will be expected to generate at least 25%. For institutions that are currently under the 33% there will be a phase-in, and for any that exceed this amount, tuition would likely be held constant until the state appropriations are increased proportionately. A full time equivalent enrollment to be funded in 2000-02 would be determined at the end of the process of benchmarking.

The council established three primary components for the operating budgets for 2000-02: benchmark funding, performance funding, and incentive trust funds. The performance funding will be additional funding to reward performance objectives identified by the council. The incentive trust funds will be designed to act as a catalyst for additional change and to help meet the aspirations for Kentucky's institutions.

### **Post-Tenure Reviews**

Staff from the Council on Postsecondary Education reported to the Subcommittee that all public postsecondary education institutions had either adopted a system of post-tenure review or had developed a system that was before the governing board for approval. All will have systems in place by the 2000-2001 school year. The majority of the systems are based on a performance review process that includes a development phase for those tenured professors who demonstrate deficiencies.

### **Preparation and Certification of Teachers**

The Subcommittee heard the findings from a study conducted by the Kentucky Institute for Education Research, "Preparation of New Teachers for Kentucky Schools: A Longitudinal Study of New Teachers, Summary Report for 1996 and 1997." The study indicated that new teachers were generally satisfied with their teacher preparation programs, but there were some areas for which they felt unprepared. Staff of the institute explained that in some of these areas, more information was needed to know if these are areas of performance required for the new teacher or areas that the new teachers learn with experience and continued professional development.

The Subcommittee heard an in-depth discussion on teacher preparation and teacher supply and demand issues by members of the Education Professional Standards Board and reviewed the strategic agenda of the Board. Kentucky does not have as large a teacher shortage problem as do other states; however, there are general shortages in certain regions of the state as well as state-wide shortages of speech language pathologists and math, science, special education, selected foreign language teachers. The Board is

addressing key policy issues regarding the exit requirements for assessment of new teachers and quality of teacher preparation programs.

### **Remedial Courses**

Staff of the Council on Postsecondary Education shared excerpts from the High School Feedback Report that indicates that of the college freshmen in Kentucky in 1998 who took math, 42% at universities and 65% at community colleges took remedial math; and of those freshmen who took English, 18% at universities and 16% at community colleges took remedial English. Nearly half of all college freshmen take at least one remedial course. Staff reported that the Council is looking at how the methods of preparing students, the new pre-college curriculum, the Kentucky Virtual High School, and the focus on course taking patterns in the high school senior year can impact this problem. The P-16 Council is considering early diagnostic exams, perhaps at the 10<sup>th</sup> grade, that would allow students to see whether they are likely to require remedial courses in college.

### **Student Financial Aid Programs**

Staff representing the Kentucky Higher Education Assistance Authority (KHEAA) and the Kentucky Higher Education Student Loan Corporation gave an update on financial aid programs as well as identified legislative needs.

Staff reported Kentucky's default rate for the federal loan program is approximately 10.6%, which is approximately the national average. Since KHEAA instituted strategies to lower the default rate, Kentucky has one of the highest "default aversion" rates.

The Subcommittee was updated on several of the state financial aid programs including the Kentucky Educational Excellence Scholarship (KEES) program, established by the 1998 General Assembly to provide scholarship funds on a graduated scale to high school graduates based on grade point averages and ACT scores. The preliminary data indicate approximately 28,000 high school seniors will qualify for some scholarship money.

The osteopathic scholarship program, established by the 1998 General Assembly to provide funds for students studying osteopathic medicine in Kentucky, provided 65 students (35 the first year and 30 the second year) with scholarships. The current value of scholarships is approximately \$12,000 per year. The scholarships require that graduates practice in Kentucky or repay the scholarships. Each year of service fulfills a year of scholarship assistance.

The teacher scholarship program, a need-based conversion program for students, had 770 applicants and 330 recipients in FY 1998. In FY 1999 there were approximately 650 applicants and 450 awards. Since 1989, there have been 2540 recipients with 1560

recipients currently teaching and 430 recipients currently in school. Kentucky's program has yielded a higher rate of recipients entering teaching in-state than have similar programs in other states.

Staff reported that the Kentucky Higher Education Student Loan Corporation (KHESLC), created by the 1978 General Assembly as an independent *de jure* municipal corporation, owns a portfolio in excess of \$400 million serving approximately 80,000 borrowers. Since 1978, KHESLC has provided over \$1 billion dollars in loan capital to more than 200,000 Kentucky students and parents. For the next school year it is projected that the corporation will provide approximately \$120 million in loan capital through the origination program and the purchase program. The KHESLC works with 32 Kentucky postsecondary schools, 112 referral lenders, and four selling lenders.

Revenues cover the operating expenses at no cost to tax payers and allow KHESLC to offer loan fee discounts to borrowers. There are two fees charged to the borrower up front on FFLEP loans, a one percent insurance fee and a three percent loan origination fee, but the corporation has discounted that fee by one percent, charging only two percent, making the projected savings to borrowers for the next year approximately \$650,000. The corporation also intends an interest rate reduction in 1999-2000 of two percent for borrowers who make timely payments for 48 months. Parent borrowers will receive a one percent discount.

KHESLC has approximately \$600 million in total assets that include student loans and \$500 million in liabilities including student loan revenue bonds. The corporation is self-sustaining and receives no general fund appropriations. The 1998 General Assembly provided for a \$950 million debt limitation, but because that action was taken as part of the appropriations bill the debt limit will expire at the close of the biennium and the corporation would revert to a \$553 million debt limit, which is the limit in KRS 164A.080. KHESLC is requesting that KRS 164A.080 be amended in the 2000 regular session to continue the \$950 million debt limit to meet the projected student loan demand through June 30, 2002. The Subcommittee endorsed this request.

### **Tuition Rates in the Kentucky Community and Technical College System**

The president and chair of the Board of Regents of the Kentucky Community and Technical College System presented the rationale for increasing tuition in both branches of the system. The technical colleges' tuition remains below that of the community college, and both are being increased by a modest percent. The intention of the Board is to equalize tuition of the technical colleges and the community colleges, but this will be accomplished over a period of years to avoid a hardship. The Board chair also pointed out that tuition has to be raised to meet the Council on Postsecondary Education's goal of 25% student contribution to the total costs of going to the two year institutions.

## **Pre-filed Legislation**

The Subcommittee reviewed pre-filed legislation, BR 255, AN ACT relating to reorganization, and BR 362, AN ACT relating to the Higher Education Student Loan Corporation, and recommended their approval as prefiled.

**REPORT OF THE 1998-1999  
SPECIAL SUBCOMMITTEE ON ENERGY**

**Rep. Tom McKee, Chair**

Rep. Royce Adams	Sen. Alice Kerr
Rep. Eddie Ballard	Rep. Tom Kerr
Sen. Charlie Borders	Sen. Marshall Long
Sen. David Boswell	Sen. Vernie McGaha
Rep. Jim Bruce	Rep. Lonnie Napier
Rep. Buddy Buckingham	Sen. Joey Pendleton
Rep. Dwight Butler	Rep. Chris Ratliff
Rep. Bob DeWeese	Rep. Tom Riner
Rep. J.R. Gray	Rep. Tommy Turner
Rep. Porter Hatcher	Rep. Charlie Walton
Sen. Paul Herron	Rep. Brent Yonts

LRC STAFF: Linda Kubala, Tanya Monsanto, D. Todd Littlefield, and Sheri Mahan

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **SPECIAL SUBCOMMITTEE ON ENERGY**

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

### **SUBCOMMITTEE ACTIVITY**

The Special Subcommittee on Energy met 15 times during the interim. No subcommittees were formed.

#### **Electric Utilities and Coal**

The subcommittee examined a number of issues relating to coal and electricity. In September of 1998, the Subcommittee visited the Paducah Gaseous Diffusion Facility, the Tennessee Valley Authority (TVA) Shawnee generating plant, and Western Baptist Hospital. At the hospital, a new, computerized energy management system was in use. In addition to being a major employer in Paducah, the Gaseous Diffusion Facility is also an enormous consumer of electric power. The Shawnee plant exists solely to serve the facility. The fact that Shawnee burns little or no Kentucky coal highlights a large and growing issue concerning increasingly stringent air quality regulations and the vital role in the statewide economy played by the coal industry.

In a joint meeting with the Interim Joint Committee on Agriculture and Natural Resources, members learned how EPA controls on nitrogen oxide (NOx) emissions and pressure from downwind states are depressing Kentucky coal sales, production, and employment. Virtually all new electric generating projects are now gas-fired. Even within coal-fired facilities, high-sulfur Kentucky coal is losing out to coal from western states in some cases, despite added transportation costs. In April of 1999, the committee visited both an underground and a surface coal mine near Prestonsburg. Testimony was heard from the Kentucky Coal Association concerning declines in price and production since 1990. Much of this is attributable to mandates to further reduce NOx emissions. The committee passed a resolution urging the TVA to continue using coal mined from the Peabody Camp Complex mines.

The TVA participated in several meetings. As the single largest user of Kentucky coal, TVA's procurement policies have a great impact on the coal industry. The committee heard about TVA's coal purchasing decisions, the CO2 reduction treaty, stranded costs, and an initiative to market green power in the Valley. The TVA has stated that new generation facilities in its system will be gas fired.

The committee reviewed administrative regulation 807 KAR 5:007, which deals with filing and notice requirements for a local distribution cooperative to change rates to reflect a change in the rates of its wholesale suppliers. Members were kept up to date on the progress of the Electricity Restructuring Task Force and the Utility Tax Policy Task Force.

### **Telecommunications**

In separate meetings in 1998, the subcommittee heard about unfair competition concerns between municipal and privately owned phone companies. Similar concerns about tax equity and the structuring of fees and regulations were raised concerning municipal and privately owned cable TV systems.

Members were briefed on the progress, final report, and recommendations of the DPTS/911 Task Force. That Task Force considered ways to improve emergency call response to private telephone system callers. Significant financial and technological barriers remain to making location information for all phones automatically available to emergency responders. The CMRS board, established by 1998 HB 673, is addressing this issue for wireless phones, and the committee heard about its efforts to properly disburse funds derived for this purpose from fees paid by cellular telephone users.

In its final meeting of the interim, the committee heard from the Public Service Commission and representatives of the cellular telephone industry concerning the extent of regulatory jurisdiction in this area and the large-scale preemption of state authority by the federal government through the Telecommunications Act of 1996, which prohibits the regulation of rates for wireless phones. Also discussed was the rise of competing wireless technologies and the proliferation of wireless phone towers.

### **Water**

The Subcommittee looked at several issues facing Kentucky's water systems. Conflicts between municipal and nearby water districts over rates and territory were explored. Representatives of the Water Resources Development Commission (WRDC) spoke to the Subcommittee concerning the Governor's initiative to bring potable water to all Kentuckians by the year 2020. Considerable data has been gathered by the WRDC and a report with recommendations is expected shortly. Members were given a demonstration of the geographical information system (GIS) within which water supply and wastewater facility data is being compiled. Representatives of the Division of Water reported to the members on water quality, quantity, source protection, and implementation of the Safe Drinking Water Act. Much discussion centered on strategies for encouraging small water districts to merge in order to achieve economies of scale and management. The large number of small water districts in Kentucky and their difficulties with finance, personnel, compliance, and infrastructure is seen as a major barrier both to the Governor's drinking water initiative and to effective compliance and planning efforts. In May 1999, an

administrative regulation (807 KAR 5:070) was reviewed and passed allowing water district commissioners to receive an increase in salary if they attend approved training.

### **Low Income Home Energy Assistance Program**

As the oversight committee for LIHEAP, the subcommittee annually conducts a review and public hearing on the plan for the next year's Low Income Home Energy Assistance Program and reports its finding to the Legislative Research Commission. The program is completely funded by federal dollars and is administered by the Kentucky Association for Community Action and the Department for Community Based Services. The money is distributed to low-income households to assist with paying high winter heating bills. During the interim, the Special Subcommittee on Energy reviewed and reported to the LRC on the LIHEAP block grant plans for FY 99 and FY 2000.

Funding for this program was initially eliminated for FY 99. A subcommittee resolution asking Congress to restore LIHEAP funding was passed and may have played a part in the decision to keep the program in the budget. Another subcommittee resolution asking that Kentuckians receive emergency cooling assistance funds during the summer of 1999 was also passed. Cooling funds for Kentucky were allocated shortly thereafter.

The subcommittee also sought and received a ruling by the IRS that kerosene purchased with LIHEAP funds for home heating would not be subject to the \$0.25 per gallon tax imposed on other users.

### **Alternative Energy Sources**

The Subcommittee heard testimony regarding geothermal ground source heat pump usage in Kentucky. Several speakers gave presentations on ground source heat pumps, which utilize the stable temperature of the earth to produce heating and cooling. Notably, Daviess County School representatives described the significant savings in cost, maintenance, and space resulting from a wide use of geothermal heat in new-construction school projects.

A meeting was devoted to alternate fuels for vehicles. Members learned about a recently-completed facility in Pendleton County which will produce biodiesel from recycled cooking oil. Biodiesel can substitute freely for petroleum diesel in almost any proportion and reduces emissions while improving engine performance. A speaker from the Kentucky Clean Fuels Coalition and another from the Kentucky Corn Promotion Board provided information on ethanol usage and the potential impact on Kentucky farmers.

A representative of the TVA spoke on the Authority's new Green Power initiative in which consumers will be given an option to direct that a portion of their energy needs be supplied by hydro and wind power sources.



**REPORT OF THE 1998-99  
INTERIM JOINT COMMITTEE ON  
HEALTH AND WELFARE**

**Senator Julie Rose, Co-Chair  
Representative Tom Burch, Co-Chair  
Senator Paul Herron, Vice-Chair  
Representative Bob DeWeese, Vice-Chair  
Representative Susan Johns, Vice-Chair  
Representative Steve Nunn, Vice-Chair  
Representative Kathy Stein, Vice-Chair**

Sen. Charlie Borders  
Sen. Ed Miller  
Sen. Dick Roeding  
Sen. Ernesto Scorsone  
Sen. Jack Westwood  
Rep. Bo Ausmus  
Rep. Brian Crall  
Rep. Jim Gooch  
Rep. Eleanor Jordan  
Rep. Ruth Ann Palumbo  
Rep. Arnold Simpson  
Rep. Susan Westrom

Sen. Tom Buford  
Sen. Joey Pendleton  
Sen. Larry Saunders  
Sen. Katie Stine  
Rep. John Arnold  
Rep. John Bowling  
Rep. Bob Damron  
Rep. Bob Heleringer  
Rep. Mary Lou Marzian  
Rep. Jon David Reinhardt  
Rep. Kathy Stein

LRC Staff: Robert Jenkins, CSA; Barbara Baker, Kelly Smith, DeeAnn Wenk,  
Murray Wood, Gina Rigsby, and Cindy Smith.

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**

## **SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

### **SUBCOMMITTEE ON FAMILIES AND CHILDREN**

**Representative Tom Burch, Co-Chair**

**Senator Katie Stine, Co-Chair**

**Representative Mary Lou Marzian, Vice-Chair**

**Senator Tom Buford, Vice-Chair**

Rep. Bob DeWeese

Rep. Steve Nunn

Rep. Ruth Ann Palumbo

Rep. Jon David Reinhardt

Rep. Kathy Stein

Rep. Susan Westrom

Sen. Paul Herron

Sen. Joey Pendleton

Sen. Dick Roeding

**Senator Julie Rose, Ex-Officio Member**

### **SUBCOMMITTEE ON LONG-TERM CARE**

**Senator Jack Westwood, Chair**

**Representative Kathy Stein, Co-Chair**

**Senator Katie Stine, Vice-Chair**

**Representative Susan Johns, Vice-Chair**

Sen. Paul Herron

Sen. Ed Miller

Sen. Joey Pendleton

Sen. Ernesto Scorsone

Rep. John Arnold

Rep. Bob Damron

Rep. Bob DeWeese

Rep. Bob Heleringer

Rep. Mary Lou Marzian

Rep. Jon David Reinhardt

**Senator Julie Rose, Ex-Officio Member**

**Representative Tom Burch, Ex-Officio Member**

### **SUBCOMMITTEE ON WELFARE REFORM**

**Representative Eleanor Jordan, Co-Chair**

**Senator Dick Roeding, Co-Chair**

**Representative Steve Nunn, Vice-Chair**

**Representative Ruth Ann Palumbo, Vice-Chair**

**Senator Charlie Borders, Vice-Chair**

Rep. John Bowling

Rep. Brian Crall

Rep. Jim Gooch

Rep. Arnold Simpson

Sen. Larry Saunders

**Senator Julie Rose, Ex-Officio Member**

**Representative Tom Burch, Ex-Officio Member**

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

**JURISDICTION:** matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; garbage and refuse disposal; public assistance; child welfare; adoptions; mothers aid and assistance to children; children's homes; incompetents; poor persons and poor houses; 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; hospitals, clinics and personal care homes; foods, drugs and poisons; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; sanitation districts; frozen food locker plants; alcoholism; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists; ophthalmic dispensers; physical therapists.

### **COMMITTEE ACTIVITY**

As of October 31, 1999, the Interim Joint Committee on Health and Welfare has met seventeen times during the 1998-99 Interim, with approval to meet in November and December.

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

The committee has held public hearings and issued reports on the following eight Executive Branch Block Grant Applications for a federal or state fiscal year: Temporary Assistance for Needy Families; Social Services; Maternal and Child Health Services; Community Mental Health Services; Community Services; Preventive Health and Health Services; Substance Abuse Prevention and Treatment; and Child Care and Development.

#### **Referred Executive Orders**

The committee has reviewed and considered the following ten Executive Orders that reorganize various governmental units: EO 98-731, relating to the Reorganization of the Cabinet for Families and Children; EO 98-791, relating to the Reorganization Plan of the Office of the Inspector General, Cabinet for Health Services; EO 98-792, relating to the Reorganization Plan of the Department for Medicaid Services, Cabinet for Health Services; EO 98-892, relating to the Reorganization of the Developmental Disabilities Council; EO 98-1671, relating to the Reorganization of the Department for Medicaid Services, Cabinet for Health Services; EO 99-80, relating to the Reorganization of the Office of Aging Services; EO 99-203, relating to the establishment of the Department for Disability Determination Services; EO 99-255, relating to the Reorganization in the Cabinet for Families and Children; EO 99-1200, amending Membership of the State and Regional Interagency Council for Services to Children with an Emotional Disability; and EO 99-1513, relating to the Office of Early Childhood Development within the Office of the Governor.

## **Major Issues Considered**

### **Kentucky Child Health Insurance Program**

The Kentucky Child Health Insurance Program (KCHIP) is funded through \$50 million in federal dollars, matched with \$13 million in state dollars. The Secretary of the Cabinet for Health Services, directed to administer the KCHIP, briefed the members on steps taken to implement three expected components of KCHIP: a Medicaid Eligibility Expansion for children from 14-18 years of age with family incomes under 100% of the federal poverty level; a KCHIP insurance program with coverage available to children of parents who work for employers not offering health insurance; and an employer contribution subsidy program. The cabinet experienced difficulty implementing the insurance component, so Medicaid was expanded to cover children in families with incomes at or below 150% of the federal poverty level.

### **Public Health Departments**

The committee was briefed by the Commissioner of the Department for Public Health on activities of that agency, including the effect of Medicaid managed care on local health departments. Several local health department administrators testified that managed care had resulted in a decrease in services, a reduction in staff, and uncertainty and stress on remaining health department employees.

### **HIV/AIDS**

Over two meetings, the committee heard panel presentations on HIV/AIDS prevalence and incidence, HIV prevention, financing of HIV prevention and AIDS clinical care services, and building a comprehensive system of care for persons with HIV and AIDS. While AIDS deaths are declining, the numbers of HIV positive individuals is increasing. Women and minorities in particular are at high risk, and Louisville has one of the highest rates of HIV incidence of any metropolitan area in the country. Effort should be given to improve data collection so that funding and services can focus on the parts of the state that are most in need.

### **Kentucky Perinatal Needs Assessment**

The committee learned that congenital anomalies are the leading cause of death for infants in Kentucky. There were 382 infant deaths in 1997, of which 27.5% were caused by birth defects, making Kentucky one of the top five states in birth defect-specific infant mortality. Low birthweight leads to 40 times more birth defects and infant deaths than average birth weight, and a lack of early prenatal care is highly correlated with low birthweight. Some 83% of Kentucky women receive prenatal care at some point during

their pregnancies, and women with health insurance are more likely to receive it than women without health insurance.

Maternal smoking is also a major factor influencing low birthweight. Maternal smoking in Kentucky is nearly twice the national rate: 31% in Kentucky compared to 17% in the US.

The Kentucky Birth Surveillance Registry (KBSR) was developed through collaboration among various hospitals, the Kentucky Hospital Association, KBSR Advisory Council, service and advocacy organizations, and the Department of Public Health to develop an information collection method. The registry assists in planning and policy development and helps determine the incidence of specific birth defects, with the goal of lowering infant death rates. The registry has received some federal funding for program enhancement, but it has not received any state funding.

### **Kentucky Cancer Registry and Governor's Task Force on Breast Cancer**

Reports were presented on the Task Force on Breast Cancer and on the Kentucky Cancer Registry. The Kentucky Cancer Program was established in 1982, and the Registry was established in 1990. The Registry collects, manages, and analyzes data on breast cancer and other cancers. It is estimated that increased breast cancer screening efforts have saved the lives of 446 Kentuckians and have saved \$4.7 million in treatment expenditures.

The Task Force developed the Breast Cancer Action Plan that includes recommendations to increase public awareness of breast cancer risk, detection, and treatment; to initiate strategies to increase mammography screening rates; to promote universal adherence to standards of care; to inform patients about available counseling and support; and to prohibit employment and insurance discrimination.

### **Mental Health**

The Secretary of the Cabinet for Health Services testified that Central State Hospital Intermediate Care Facility for Mentally Retarded Persons would close and that patients would be placed in other institutions or community facilities. Many family members and advocates spoke against the decision. The Cabinet believes that services can be performed without a loss in quality but with less cost to the state if they are provided in smaller community-based facilities. There are 1,200 people on the supports for community living waiting lists, and Kentucky ranks 48th in spending on this population.

The Department for Medicaid Services requested the Health Care Financing Administration to approve the home and community-based waiver, which would provide personal emergency response systems, in-home support, and community support up to \$18,200 per year. The services under this waiver are more limited than those provided under the current SCL waiver. While it is not expected that this waiver will eliminate the

waiting list, it could free up some slots in the current SCL waiver. Some of the services to be provided are currently provided through comprehensive care with state dollars. The waiver would use state funds to leverage federal funds.

The Kentucky Department for Mental Health/Mental Retardation Services has indicated that there is a need to expand funding and resources for supported living, supported housing, and for the following three programs: mental retardation, serious mental illness, and substance abuse.

### **Children's Advocacy Centers**

Various legislation from 1994 to 1998 offered protections to child victims of abuse and neglect. In 1998, over 28,000 cases of child abuse were substantiated by the Cabinet for Families and Children. Child Advocacy Centers have been created to offer one site in a community where a prosecutor, social worker, doctor, advocate, and others may come together to help a child who has been a victim. There are eight centers located in Kentucky, either in a house or hospital, each organized "around a child" to enable the child to tell his or her story and be evaluated by professionals in a coordinated and timely manner.

### **Child Support and Collection**

The Director of the Division of Child Support Enforcement testified that child support collections have increased \$22 million since 1997, and non-welfare collections have increased \$60 million since 1995. Wage-assignment collections have increased to \$82.9 million (15.9% increase). For every \$1 spent, the division collects \$4.17. Recommendations included: (1) enacting legislation to permit the set-aside of real property transfers made in avoidance of child support collection proceedings; (2) simplifying the lien filing system; (3) permitting the judge to order a defendant to post a bond for payment of past due obligations and allowing forfeiture if the defendant becomes delinquent; and (4) providing financial penalties for defendants who file frivolous motions to avoid or delay child support obligations.

### **Early Child Development**

The committee heard from the Executive Director of the Governor's Office of Early Childhood Development, the Public Policy Director of Community Coordinated Child Care, the Director of the University of Alabama/Birmingham Civitan International Research Center, and the President of the Education Commission of the States.

Brain development research suggests that 90% of the infrastructure of a child's brain is developed by age three, and thus it is imperative that education begin early in life, particularly for those less advantaged. Children who are spoken to frequently have vocabularies of approximately 800 words by age two, while those who are spoken to less frequently have vocabularies of approximately 500 words.

Potential proposals include: increasing the staffing levels at child care centers and requiring teachers at those centers to have more training; increasing public awareness of early brain development; adopting statewide standards for quality child care; and expanding the availability of high-quality after-school and summer programs for "at-risk" children. Funding levels for FRYSCs are determined by the school free lunch program. Welfare reform and K-TAP appear to be reducing the number of children eligible for free lunch, thereby causing FRYSC revenues to decline.

Child care and at-home subsidies may be recommended. Wage and training subsidies could be used to increase teacher qualifications. Staff-to-child ratios could be reduced. Head Start and Early Start may be expanded statewide.

### **Women's Health Update**

The Office of Women's Health was created by 1998 HB 864. The Executive Director of the Kentucky Commission on Women testified that a survey was sent to women all over the state to identify their expectations and concerns about women's health issues. Responses were compiled, the most important issues were listed, and a task force made up of health professionals and field experts was organized.

Most women were concerned about access to insurance, being uninsured or underinsured, being protected from domestic violence, having a clean and healthy environment, and having access to preventive education.

### **University of Kentucky's Center for Health Services Management and Research**

The Director of the University of Kentucky's Center for Health Services Management and Research testified that the mission of the center is to provide state-of-the-art research, consultation, and education in health care services to improve the health status of individuals and populations in the Commonwealth and the nation. The center uses faculty associates to take advantage of their expertise and knowledge relating to health care.

The center works with government agencies, especially the Department for Public Health. With the support of the Centers for Disease Control (CDC), the center has been able to investigate issues such as breast cancer and cervical cancer screening. The center was involved with the Governor's Task Force on Breast Cancer and assisted with data collection and analysis.

The center is working with the Cabinet for Health Services to evaluate the abstinence program and help people to make it work best in their community. It has completed an educational needs assessment of the local health departments, and it will receive funds from CDC, the Department for Public Health, and Good Samaritan

Foundation to develop an educational program to meet the educational needs of the staff of local health departments at both the administrative and clinical levels.

The center will work with the University of Louisville on the Kentucky Oral Health Surveillance System. It worked with the Center for Long-Term Policy and Research to conduct a key-informant survey to identify major health problems and issues facing Kentucky and to look at health policy in Kentucky particularly in the areas of cost, quality, and access. Dental colleagues have asked the center to collaborate with them to look at the issue of Medicaid managed dental care. The center is involved in evaluation of telemedicine.

### **Bioterrorism and Kentucky's Response Network**

Medical professors from the University of Louisville stated that, in preparation for a possible bioterrorist threat, the Centers for Disease Control has developed a strategic plan with five basic points: expand preparedness and prevention research, with the CDC and federal government providing technical assistance to allow local and state health departments to perform self-assessments on their capabilities to provide response in the event of an emergency and to look at simulated exposures in detail; expand detection and surveillance capabilities by providing partnerships with hospital emergency rooms response teams and by clinicians on the front line; expand the capability to diagnose and characterize biological and chemical agents; provided rapid response to exposure and develop capabilities of investigative teams to determine whether an exposure has occurred, provide treatment to large segments of the population, and draw upon pharmaceutical stockpiles that have been created to supply the needs of mass exposures; and establish a nationwide communications and training network to alert individuals to the extent of exposure, confirm reality of exposure, and coordinate responses.

A recommendation was made to involve the state's intranet, Kentucky Information Highway, and expand the on-ramps to 53 local health departments. Kentucky has asked for \$750,000 from the CDC for three years for the health alert network.

### **Adoption 2002 Task Force**

The federal 1997 Adoption and Safe Families Act requires states to increase the number of adoptions over a period of years. Kentucky is meeting the initial goals, and an executive branch task force has explored many barriers to adoption and made numerous recommendations. Many of the recommendations are agency-related and address some of the bureaucratic processes, while others involve legislation to meet federal mandates and provide incentives to promote adoption of state-agency children.

Incentives include the waiving of court filing fees in adoptions, waiving tuition and student fees for postsecondary education for foster and adoptive children, and permitting state subsidies to extend through the years that the adoptee attends postsecondary educational institutions.

## **Kentucky Action Plan for Tobacco Settlement Dollars**

Kentucky Action, a non-smoking and smoking cessation initiative, presented its plan for tobacco settlement dollars. \$21.2 million is requested to fund school-based programs, community youth prevention grants, community programs to reduce the burden of tobacco-related diseases, counter marketing, cessation programs, enforcement, research and evaluation, and administrative expenses.

## **Current Status and Future Improvements of Child Care in Kentucky**

The Executive Director of the Long-Term Policy Research Center stated that Kentucky does not compare well with other states in four key components of child care: child-to-staff ratios, group size, staff qualifications, and staff stability. A weekly cost of \$10 per child would help, but it would take \$20 per child to move Kentucky's programs to the highest level. Strategic partnerships should be achieved between private and public entities.

## **Briefing on Abolishing the Death Penalty**

Speakers against the death penalty included a rabbi; an archbishop; a minister; a former death row inmate who had been exonerated; a former journalism student who had uncovered the evidence that led to that inmate's freedom; a law school professor; a former Commonwealth's attorney; a father of a young lady who was killed in the bombing of the federal building in Oklahoma City; a professor of justice; and the sister of a state trooper who was murdered. They argued that the death penalty is unnecessary, particularly in a society that has a sentence of "life without possibility of parole"; is expensive, in that it costs more to process appeals than it does to keep the average inmate in prison for his or her projected lifespan; is violent, in that the death penalty does more to brutalize society than it does to deter crime; and is unjust, in that the death penalty is not applied equally to all races and genders.

## **Medicaid**

In December, 1999, the Secretary of the Cabinet for Health Services presented a brief outline of his plan to eliminate the expansion of managed care partnerships into the six Kentucky regions that are still operating under the KenPac Program. The managed care programs in the Louisville and Lexington regions would continue. A federal waiver will be sought to allow private health maintenance organizations to contract with the Cabinet for the provision of services in the remaining six regions, and the Cabinet may seek a waiver to carve out pharmaceuticals from managed care.

## **Resolutions Adopted**

The committee adopted six resolutions. The first resolution urged Congress and the President to rescind provisions of the federal Balanced Budget Act of 1997 related to an interim payment system for Medicare home health services and to work jointly with the Health Care Financing Administration to develop any necessary amendments or changes in regulations in a manner which does not disrupt, interrupt or eliminate services to Medicare home health beneficiaries who are dependent on home health services. The second resolution expressed opposition to the actions of the Executive Branch in abolishing the Kentucky Kare health benefit plan and further reducing the number of quality health insurance carriers available to state employees. The third resolution was in loving memory of Representative Paul Mason. The fourth resolution requested the Governor and the Secretary of the Cabinet for Health Services to preserve the state and local health departments' role in providing primary care for the Commonwealth's indigent and Medicaid recipients. The fifth measure expressed opposition to the actions of the Executive Branch for closing the ICF/MR unit at Central State Hospital. The sixth resolution urged the Cabinet for Health Services to suspend the Request for Proposal process in Region 8 until the Medicaid Managed Care Oversight Advisory Committee of the Kentucky General Assembly heard testimony and reviewed the bidding process.

## **Reports Received**

The committee also received statutorily mandated reports on: Medicaid Fraud and Abuse; Blood Establishment Safety; the Kentucky Commission on the Deaf and Hard of Hearing TDD Distribution Program; Kentucky Spinal Cord and Head Injury Research Board; SWIFT Adoption Teams; Auditor of Public Accounts Report on the Guardian ad Litem Practices in the Commonwealth; Kentucky HIV/AIDS; Substance Abuse and Pregnancy Workgroup; University of Kentucky's Center for Rural Health; Breast Cancer Screening Program; 98 HB 434, 98 HB 321 reporting requirements for Medicaid; Utilization Review; Cancer Registry; Dispensing and Acquisition of Pharmaceuticals in Kentucky; Juvenile Justice Advisory Committee; Citizens Foster Care Review Board Statistical Report; Elder Abuse, Neglect, and Exploitation; and Paul Mason Memorial Task Force on HIV/AIDS Prevention, Services, and Financing.

## **Administrative Regulations**

The committee considered 196 administrative regulations upon referral from the Administrative Regulation Review Subcommittee. Two were found deficient.

## **Prefiled Legislation**

The following bills prefiled for the 2000 regular session were referred by the Legislative Research Commission to the committee:

- 00 RS BR 38, AN ACT relating to the use of automated external defibrillators.

- 00 RS BR 113, AN ACT relating to the usage of tobacco by minors.
- 00 RS BR 132, AN ACT relating to the provision of health services to the medically indigent.
- 00 RS BR 152, AN ACT relating to immunizations.
- 00 RS BR 288, AN ACT relating to residential care facilities.
- 00 RS BR 462, AN ACT relating to hospitalization of the mentally ill.
- 00 RS BR 502, AN ACT relating to reorganization.
- 00 RS BR 505, AN ACT relating to reorganization.
- 00 RS BR 507, AN ACT relating to reorganization.
- 00 RS BR 508, AN ACT relating to reorganization.
- 00 RS BR 509, AN ACT relating to reorganization.
- 00 RS BR 510, AN ACT relating to reorganization.
- 00 RS BR 801, AN ACT relating to the personal care assistance program.
- 00 RS BR 839, AN ACT relating to Medicaid.
- 00 RS BR 939, AN ACT relating to services for persons with mental retardation and other developmental disabilities, making an appropriation therefor, and declaring an emergency.
- 00 RS BR 948, AN ACT relating to senior citizen and child-care centers.
- 00 RS BR 951, AN ACT relating to kinship care for children.
- 00 RS BR 952, AN ACT relating to child support.
- 00 RS BR 954, AN ACT relating to child support.
- 00 RS BR 957, AN ACT relating to child protection.
- 00 RS BR 1101, AN ACT relating to services for persons with mental retardation and other developmental disabilities, making an appropriation therefor, and declaring an emergency.
- 00 RS BR 1159, AN ACT relating to the use of information technology in the delivery of health services, and making an appropriation therefor.

Of these bills, the following were passed out of committee with a recommendation for passage: 00 RS BR 38, as amended; 00 RS BR 152, as amended; 00 RS BR 462; 00 RS BR 502, as amended; 00 RS BR 505, as amended; 00 RS BR 508, as amended; 00 RS BR 509; 00 RS BR 510; 00 RS BR 951; 00 RS BR 952; 00 RS BR 954; 00 RS BR 957; and 00 RS BR 1101, as amended.

### **SUBCOMMITTEE ACTIVITY**

The Interim Joint Committee on Health and Welfare established the following subcommittees:

Subcommittee on Families and Children;  
 Subcommittee on Long-Term Care; and  
 Subcommittee on Welfare Reform.

## **Subcommittee on Families and Children**

The Subcommittee on Families and Children held twelve meetings during the 1998-99 interim. The subcommittee focused on three major themes: accountability of the child protective services system, early intervention and services to at-risk children, and permanency for children in out-of-home care.

### **Accountability of the Child Protective Services System**

The subcommittee reviewed several sources of information relating to quality and accountability of the Department for Community Based Services, including an investigative report from the Office of Attorney General; operations of the Department's Quality Assurance Division; efforts to seek national accreditation as a child protective services agency; staffing and workload issues; reliability of the state data system; and the functionality of community groups to conduct local case reviews (i.e., Citizen Foster Care Review Boards, local multidisciplinary child sexual abuse teams, and citizens review panels). The Neighborhood Place approach was presented to demonstrate that collaboration of service providers on a community level can produce reductions of reports of family violence. The foster care system, including both state and private agency service providers, was also discussed.

### **Early Intervention and Services to At-Risk Children**

The subcommittee examined state expenditures for psychiatric hospitalization and the development, or lack thereof, of community based treatment options designed to reduce the need for hospitalization. Discussions included the need for residential pediatric short-term medical care and related Certificate of Need issues. Members were updated on the proposal and status of implementation of behavioral health managed care for Medicaid recipients. The Kentucky Early Intervention System (First Steps) was also reviewed in response to budget overruns, and the Program Review and Investigations Committee is conducting a study of this program. Concerns were voiced about children in special education classes, specifically the provision of educational and other services required by individual education plans. Home visitation programs for new parents, Head Start and Early Start programs, and visits to child care centers addressed early childhood education and learning and early intervention programs. The subcommittee was informed about Kentucky's low ranking on the national "Kids Count" survey. Members also discussed the issue of required accountability for the use of child support payments from the custodial parent.

### **Permanency for Children Out-of-Home Care**

The subcommittee discussed the state's ability to meet the federal requirement to increase adoptions for state-agency children, discussed recruitment of foster and adoptive homes, difficulties experienced in out-of-state adoptions, and reviewed the numbers of children in out-of-home care and the stability of their placements. A new policy initiative

of "kinship care" was presented as a way of keeping family members involved with children who cannot be cared for in their own homes. The subcommittee invited the Governor's Adoption 2002 Task Force to present its work twice during the Interim.

### **Subcommittee on Long-Term Care**

The Subcommittee on Long-Term Care met eleven times during the 1998-99 interim, and it is anticipated that the committee will meet during November. A summary of the major issues considered during the interim follows:

#### **Federal Legislation**

The Federal Affairs Counsel and Director of the Health Committee with the National Conference of State Legislators provided a summary of current federal legislation related to long-term care and managed care. It was noted that the budget bill under negotiation could undo some of the providers' financial stressors created by the 1997 Balanced Budget Act and may give more flexibility to states in spending the welfare reform "D-Link" money by extending the timeframe that states have to spend the money. Prescription drug coverage for the elderly was discussed, and a comparison of the various federal bills on a proposed patient bill of rights was presented. Federal health provisions would be limited to ERISA. A tax credit for long-term care insurance and an exemption for family caregivers are also proposed federal options.

#### **Assisted Living**

The subcommittee heard testimony from the executive director of Kentucky Assisted Living Facilities Association (KALFA) and various providers who presented an overview of the role of KALFA and demographic trends that affect the need for assisted living facilities. KALFA has organized an external advisory group for researching and proposing legislation or regulatory changes for Kentucky's assisted living industry and supports certification at assisted living facilities.

#### **Implementation of Care 2000 Recommendations**

**Single Point of Entry.** Members heard testimony from staff of the Office of Aging Services regarding implementation of Care 2000 recommendations. Staff from that office have organized an internal steering committee to work toward the implementation of a single point of entry to: help the elderly fit into a client-based, client-centered system; monitor cost effectiveness by reducing duplication of efforts; and assure simple and easy access to care. The single point of entry would include an assessment of treatment and care needs.

An external advisory work group has also been organized to provide guidance and assistance to the Office of Aging Services and the internal steering committee during development and implementation. It is anticipated that the single point of entry would

begin as a demonstration in three area district development areas: Northern Kentucky, Big Sandy, and Purchase.

**Home and Community-Based Waivers.** The nurse administrator of the Community Based Services Branch, Division of Long-Term Care, provided the subcommittee with a progress report regarding home and community-based waivers and an overview of eligibility and services. The Department for Medicaid Services, with plans to submit additional waivers to the Health Care Financing Administration (HCFA), wants to expand heavy chore services, personal emergency response systems, and minor home adaptations. Members of the subcommittee voiced concern and noted that personal care services should take priority over additional heavy chore services. Subsequently, the department submitted three home and community-based waivers to HCFA. These included the personal care assistance and homecare services which have been approved by HCFA, and the "Kentucky Encouraging Independence" waiver, which has not yet been approved by HCFA. This program would provide services to individuals who have mental retardation or related conditions.

The executive director of the Kentucky Home Health Association expressed concern that the two personal care assistance and homecare services waivers would be administered through the Office of Aging Services instead of the Medicaid program. Under this system, services historically provided by home health agencies would be provided by a "qualified agent." Training of the aides was also noted as a concern.

Current waivers would draw down \$1.9 million of federal funds to serve about 1,000 clients. The Request for Proposal process would be done by the area agencies on aging in the area development districts. These programs will have case managers.

**PACE.** The subcommittee heard testimony on the progress toward the Program of All-inclusive Care for the Elderly (PACE). A nurse consultant from the Community Based Services Branch reported that the State Health Plan had been amended to include PACE as a provider under Medicaid and that regulations were being drafted.

### **National Trends Affecting Long-Term Care**

Three administrators of nursing facilities testified that federal and state regulations and paperwork and other regulatory requirements are demanding time that would be better spent on direct patient care. Staff turnover and the difficulty of finding quality staff were also discussed.

### **Use of Restraints in Nursing Facilities**

Nursing facilities and family members had noted concerns that the Division of Licensing and Regulation were prohibiting the use of bedrails and restraints in cases where these were important to the safety of the client. The assistant director of the Division of Licensing and Regulation, Office of Inspector General, provided a summary of the

"Resident Assessment Protocol for Physical Restraints" that is used to determine if a resident needs to be restrained. The Office of Inspector General does not prohibit the use of physical restraints, but it does require the protocol to be followed. An annual comprehensive assessment is performed on all clients.

### **Family Care Homes Reimbursement and Licensure Issues**

Operators of three family care homes and the projects director of the Nursing Home Ombudsman Agency of the Bluegrass testified that the number of clients in family care homes should be increased and that more education should be provided by the Division of Licensing and Regulation. Currently, operators are required to attend an educational event once a year if offered by Licensing and Regulation.

### **Other**

The committee heard testimony regarding the following topics: crisis in caring for mentally disabled; quality and safety of transportation of the elderly for long-term care services; long-term care insurance; and long-term care needs associated with fetal alcohol syndrome and other drugs.

### **Subcommittee on Welfare Reform**

The Subcommittee on Welfare Reform has met eleven times during the 1998-99 Interim. The major topic at every meeting was the continued implementation of the Kentucky Transitional Assistance Program (K-TAP).

### **Kentucky Transitional Assistance Program (K-TAP)**

K-TAP is Kentucky's state plan to implement the 1996 federal welfare reform legislation known as Transitional Assistance for Needy Families (TANF), which mandated such major changes in state welfare programs as work requirements and 5-year time limits. While welfare caseloads in Kentucky have dropped by over 40% since it was implemented October 1, 1996, families may have multiple employment barriers: substance abuse, domestic violence, mental illness, and residence in high unemployment areas of the state.

The Cabinet for Families and Children provided monthly briefings on the number of cases subject to discontinuance for not meeting the 24-month work requirement. Since December 1, 1998, over 540 families and 1,078 children have been discontinued for this reason.

The Center for Policy Research and Evaluation in the Urban Studies Institute at the University of Louisville is evaluating K-TAP. Recipients and advocates spoke to the subcommittee on their experiences, voicing concerns about the consistency and quality of policy and service delivery. Representatives from a local Department of Community Based Services office presented information on policies and procedures for making home visits to

K-TAP recipients who are facing discontinuance. The Cabinet spoke of its plans for spending surplus funds that are being generated by declining welfare rolls.

The Cabinet has contracts with five service agents to implement the Child Care Assistance Program. Goals include increasing the number of children served and increased funding. One child care service agent confirmed progress with initial start-up problems. There is also a lack of standards for noncertified child care providers.

The Division of Policy Development, Cabinet for Families and Children, spoke about a specific policy change designed to encourage children of K-TAP recipients to stay in school. Information about the Neighborhood Place School Attendance Support Plan in Jefferson County was also presented.

The Cabinet for Families and Children, the Kentucky Grocers Association, and Citibank testified regarding the progress of the Electronic Benefits Transfer (EBT) program first implemented on May 1, 1999, in five pilot counties. Kentucky Youth Advocates discussed the impact of welfare reform policies on children, and the director of the Civitan International Research Center at the University of Alabama in Birmingham, spoke about the importance of early childhood education.

Members toured the Family Care Center in Lexington. Designed to serve low-income families, priority is given to young mothers who are between the ages of 16 and 22 and are eligible for K-TAP.

The Report of the Higher Education Advisory Committee made recommendations for improving access to higher education for K-TAP clients. A short summary of programs and services for the low-income population available through the Kentucky Association for Community Action and the Community Action Agencies was presented.

The Cabinet for Families and Children and the Cabinet for Health Services briefed the committee on the potential loss of enhanced matching funds for Medicaid administrative costs attributable to the implementation of welfare reform.

**REPORT OF THE 1998-1999  
INTERIM JOINT COMMITTEE ON JUDICIARY**

**Sen. Dick Adams, Co-Chair  
Rep. Gross Lindsay, Co-Chair**

Sen. Gary Johnson	Rep. Jesse Crenshaw
Sen. David Karem	Rep. Joseph Fisher
Sen. Alice Kerr	Rep. Charles Geveden
Sen. Gerald Neal	Rep. Bob Heleringer
Sen. Larry Saunders	Rep. Jeffrey Hoover
Sen. Dale Shrout	Rep. Joni Jenkins
Sen. Katie Stine	Rep. Tom Kerr
Sen. Elizabeth Tori	Rep. Frank Rasche
Sen. Jack Westwood	Rep. Kathy Stein
Sen. David Williams	Rep. John Vincent
Rep. Ira Branham	Rep. Susan Westrom
Rep. Kevin Bratcher	Rep. Rob Wilkey
Rep. Stan Cave	Rep. Brent Yonts
Rep. Perry Clark	

LRC STAFF Norman Lawson, Scott Varland, Jon Grate, and Dawn Groves

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 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 (including domestic violence); 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 Kentucky Supreme Court, the Supreme Court, the Court of Appeals, Circuit Courts and District Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks of court; juries, attorneys; commissioners and receivers; court reporters; herbs corpus; crimes and punishments; controlled substances offenses; driving under the influence; criminal procedure; probation and parole; correctional penitentiaries and private prisons; civil rights; and juvenile matters.

### **COMMITTEE ACTIVITY**

The first meeting of the committee was held in August 1998. The committee first focused on sovereign immunity, particularly as to whether sovereign immunity should be waived to the extent that a defendant governmental unit has purchased insurance coverage. After hearing from representatives of the Kentucky Academy of Trial Attorneys, the committee heard from representatives of the Kentucky Board of Claims, the body through which the state allows itself to be sued, albeit without monetary caps on the amount of recovery. The committee then heard from representatives of the Justice Cabinet and units under the cabinet on issues surrounding suits against employees of the cabinet. After discussing the issue as it relates to the state, the committee turned its attention to the issue as it affects local government and toward this end heard testimony from representatives of the Kentucky Association of Counties, the Kentucky League of Cities, and the Lexington/Fayette Urban County Government.

The second meeting of the committee was held in October 1998. At this meeting, the committee heard from the Chief Justice of the Kentucky Supreme Court, who came before the committee to introduce himself and express his desire for the future continuation of the respect and interchange of ideas between the court and the committee. The committee then heard from the Secretary of the Justice Cabinet and various subordinates on various issues surrounding the ongoing implementation of the provisions of the 1998 Omnibus Crime Bill. The committee also heard testimony on the process for sharing and expunging criminal records and testimony from a Circuit Court Judge on the use of drug courts as an alternative to the traditional criminal justice process.

The third meeting of the committee was held in November 1998. The committee first heard from a representative of the Commonwealth Attorney's Association concerning

the association's views of issues surrounding the implementation of the 1998 omnibus crime bill. The committee also heard from a representative of the Attorney General's Office who briefed the committee on the implementation of Kentucky's witness protection program, a new program created by the previous session of the General Assembly. The committee then heard from a representative of the Cabinet for Health Services on the implementation of health related issues in the 1998 Omnibus Crime Bill, including provisions relating to tuberculosis and hepatitis C testing, as well as provisions relating to the mentally ill. Finally, the committee received a report addressing the delay in codifying and printing the Kentucky Revised Statutes as amended in the 1998 session.

The fourth meeting of the committee was held in February 1999. The committee first heard from representatives of the Attorney General's office on the subject of pending administrative regulations to implement the provisions of the 1998 telemarketing bill. The witnesses explained the provisions of the regulations and the bill's provisions preventing certain entities from calling person's who had chosen to place their names on the Attorney General's no-call list. The committee approved the administrative regulations. The committee then heard from representatives of the Legislative Research Commission who spoke on the delay in the codification and distribution of the statutes and the mechanisms put in place to prevent similar delays after future sessions. Also, the Reviser of Statutes briefed the committee on an issue surrounding the safekeeping of wills and the proper official for that task. Finally, a number of witnesses appeared before the committee to discuss the law and administrative processes attendant to expungement of juvenile and adult criminal records.

The fifth meeting of the committee was held in March 1999. The committee's focus for this meeting centered on the assessment of fees in the criminal justice system, including to whom the fees are distributed and to what use they are put. Toward this end, the committee heard testimony on the Spinal Cord Injury Trust Fund, legal services for the indigent in civil cases, Crime Stoppers programs, the Crime Victims Compensation Board, fees relating to forest fires and Fish and Wildlife Resources, DUI service fees, public defender services for the indigent in criminal cases, and jail fees and operations. The committee then discussed questions relating to the funding of these programs and the utilization of a court fee or assessment as opposed to the utilization of the regular budget process.

The sixth meeting of the committee was held in May 1999. The focus of this meeting was on the bankruptcy of a contractor participating in the underground petroleum storage tank environmental assurance fund. The committee first heard testimony from a number of citizens who had work performed on their property and who had expected for the work to ultimately be paid for through the fund but faced, with the bankruptcy, the possibility of being forced to pay the cleanup bill out of pocket. The committee then heard from representatives of the Fund and the Cabinet on the status of the bankruptcy proceeding with a considerable focus on the state's attempt to pay for the work done on sites such as those described by the citizen witnesses by directly paying those sub-contractors who actually did the work or provided materials instead of paying those funds

into the bankrupt's estate. The committee also heard testimony on this issue from representatives of the unsecured creditors committee who were seeking some means by which their members might receive payment for work done or materials provided. Following this topic, the committee then turned to the issue of identity theft and heard from representatives of the U.S. secret service and the Kentucky Attorney General's Office.

The seventh meeting of the committee was held in August 1999. The committee first heard from representatives of the Underground Petroleum Storage Tank Environmental Assurance Fund and the Public Protection Cabinet who updated the committee on the status of the bankruptcy proceedings which the committee had discussed in its sixth meeting. Aside from payment questions raised at the earlier meeting, the witnesses also briefed the committee on efforts to begin or resume work at sites where there had been no work since the inception of the bankruptcy case. The committee also heard from a representative of the firm which had agreed to undertake this work. The committee then heard from representatives of the unsecured creditors committee who proposed that Kentucky pay the unsecured creditors out of general, unobligated funds, with Kentucky then using those payments as a setoff against claims in the bankruptcy action. The committee then turned its attention to the issue of police roadblocks, hearing from a group of citizens opposed to the practice and a state police officer explaining the rationale behind the need for these stops. Finally, the committee heard testimony from a representative of the Kentucky Bar Association on the association's recommended legislation for the 2000 session relating to trusts and estates.

The eighth meeting of the committee was held in September 1999. The committee toured various criminal justice sites in the western portion of the state. Sites visited included the Green River Correctional Complex, the Henderson County Detention Center, a probation and parole office, various juvenile treatment facilities, a halfway house for women, a state police crime lab, and a medical examiners office. At each location, the committee heard from the employees and others about the role of the facility and its mission in the criminal justice system.

The ninth meeting of the committee was held in October 1999. The committee heard a presentation from a Justice of the Kentucky Supreme Court on the conclusions of the Task Force on Guardians ad Litem. The Justice presented a number of recommendations, including a mandatory training provisions for prospective guardians and modifications to the method of payment for the guardian's services. The committee also heard from a number of witnesses on the question of Kentucky's wrongful death statute. The witnesses felt that the statute should be amended to allow for recovery of a decedent's relative's emotional damages when an adult is wrongfully killed. Finally, the committee considered three executive branch reorganization orders.

The tenth and final meeting of the committee was held in November 1999. Various prefiled bills were presented including a bill sponsored by Representative John Vincent on Theft of Identity.



**REPORT OF THE 1998-99  
INTERIM JOINT COMMITTEE  
ON LABOR AND INDUSTRY**

**Sen. Glenn Freeman, Co-Chair**

**Rep. J.R. Gray, Co-Chair**

Sen. Richard Adams  
Sen. Walter Blevins  
Sen. Charlie Borders  
Sen. David Boswell  
Sen. Gary Johnson  
Sen. Vernie McGaha  
Sen. Virgil Moore  
Sen. Richard Roeding  
Sen. Dan Seum  
Sen. Katie Stine  
Rep. Hoby Anderson  
Rep. John Arnold

Rep. Denver Butler  
Rep. Ricky Lee Cox  
Rep. Charlie Hoffman  
Rep. Dennis Horlander  
Rep. Joni Jenkins  
Rep. Eleanor Jordan  
Rep. Stephen Nunn  
Rep. Jim Stewart  
Rep. Johnnie L. Turner  
Rep. Tommy 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  
2000 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; hotels; 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**

During the 1998-99 Interim, the Interim Joint Committee on Labor and Industry held eleven committee meetings and eight public hearings prior to November 1, 1999. In addition, the committee is scheduled to meet in November.

The major issues considered by the Interim Joint Committee on Labor and Industry were black lung, coal dust sampling, and other workers' compensation issues. Following the end of the 1998 Regular Session of the General Assembly, the Louisville *Courier-Journal* newspaper published a five part series entitled "Dust, Deception and Death: Why Black Lung Hasn't Been Wiped Out." These articles reported alleged fraudulent activities by some coal mine operators and their employees in conducting coal dust sampling and ineffective monitoring of coal dust by the federal Mine Safety and Health Administration (MSHA), in the federal coal dust sampling program. Also, part of the series focused on how changes made in the black lung provisions of Kentucky's workers' compensation law during the 1996 Extraordinary Session on Workers' Compensation (HB 1) affected coal miners' ability to qualify for and receive benefits for black lung disease.

In response to the public issues raised in the newspaper series, the Committee conducted four public hearings during June and July of 1998 to determine the magnitude of the problem in Kentucky's coal fields. These hearings were conducted in June in Madisonville and Louisville, and in July in Pikeville and Benham. During the hearings, many workers also expressed concern over the treatment of injured workers under the new provisions of HB 1. Additional hearings were scheduled during 1999 to address issues regarding injured workers in the new workers' compensation system. The hearings were held in April, May, June, and August in Louisville, Harlan, Covington, and Paducah. Approximately 1,000 injured workers attended the public hearings.

The committee conducted the September meetings for 1998 and 1999 in conjunction with the annual Kentucky Labor Management Conference at Kentucky Dam Village State Resort Park. The agendas included updates on legislative packages passed during the 1998 regular session. Updates on legislation that increased the minimum wage, authorized reciprocal wage agreements with other states, provided investment credits for workforce training, and imposed major benefit, tax, and technical reforms in the unemployment insurance program were provided by representatives from the Department

of Employment Standards, Cabinet for Economic Development, and the Cabinet for Workforce Development.

Throughout the interim, the committee fulfilled its statutory responsibility of receiving and reviewing reports from the Workers' Compensation Funding Commission — relating to liability of the Workers' Compensation Special Fund and the Coal Workers' Pneumoconiosis Fund — and from the Kentucky Employers' Mutual Insurance Authority (KEMI), regarding the financial stability and solvency of the state-operated workers' compensation insurance carrier created in 1994.

In March 1999, staff of the National Conference of State Legislators (NCSL) presented a briefing on the federal Workforce Investment Act of 1998 (WIA) which replaced the JTPA program.

In July 1999, the committee considered and heard testimony on BR 155 relating to pay equity. Information and recommendations resulting from the Hay Study, contracted by the Personnel Cabinet, on salaries and compensation for state government employees was presented during consideration of BR 155.

Prefiled legislation relating to elimination of pension offsets on unemployment insurance (BR 140) will be considered by the committee in November.

**REPORT OF THE 1998-99  
INTERIM JOINT COMMITTEE ON  
LICENSING AND OCCUPATIONS**

**Sen. Dale ShROUT, Co-Chair  
Rep. Denver Butler, Co-Chair**

Sen. David Boswell	Rep. Ron Crimm
Sen. Tom Buford	Rep. Jon Draud
Sen. Gary Johnson	Rep. Porter Hatcher
Sen. Alice Kerr	Rep. Dennis Horlander
Sen. Robert Leeper	Rep. Joni Jenkins
Sen. Richard "Dick" Roeding	Rep. Susan Johns
Sen. Julie Rose	Rep. Eleanor Jordan
Sen. Dan Seum	Rep. Paul Marcotte
Sen. Tim Shaughnessy	Rep. Charles Miller
Sen. Elizabeth Tori	Rep. Ruth Ann Palumbo
Rep. Thomas Burch	Rep. Jon David Reinhardt
Rep. Larry Clark	Rep. Jim Stewart

LRC STAFF: Michael Greer, Vida Murray, Ann Mayo, Jack Jones, and Sue Hensley

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 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; chambers of commerce; business development corporations; 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 sales associates; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; the business regulation aspects of the uniform commercial code; warehouses and warehousemen; partnerships; and trade practices.

### **COMMITTEE ACTIVITY**

The Interim Joint Committee on Licensing and Occupations met eight times during the 1998-99 interim. In addition, committee members attended a two-day conference of the National Council of Legislators from Gaming States (NCLGS), held in Louisville. The committee formed no subcommittees..

#### **Administrative Regulations**

The committee considered twenty-four regulations promulgated by eight different agencies. Twenty-three of the regulations were approved as referred while no action was taken on one regulation which had been found deficient by the Administrative Regulation Review Subcommittee and subsequently put into effect by order of the Governor.

#### **Executive Orders**

The committee considered and approved two Executive Orders reorganizing agencies under the jurisdiction of the committee:

**Executive Order 98-905.** Relating to the Reorganization of the Public Protection and Regulation Cabinet. This Executive Order elevated the charitable gaming regulatory function from division to departmental level and moved it from the Justice Cabinet to the Public Protection and Regulation Cabinet. It also created a new Enforcement Division and moved compliance to the Licensing and Compliance Division. The Secretary of the Public Protection and Regulation Cabinet and the Commissioner of the Department of Charitable Gaming appeared at the September 1998 meeting to explain the reorganization and answer questions.

**Executive Order 98-1566.** Relating to the Reorganization of the Kentucky Racing Commission. The Executive Director of the Commission appeared at the February 1999 meeting and explained that the reorganization combined administrative functions that

had remained separate after the Kentucky State Racing Commission and the Kentucky Harness Racing Commission were combined by 1992 legislation.

## **Issues Discussed**

### **Alcoholic Beverage Control**

**Committee Update.** Major housekeeping legislation for the alcoholic beverage control area was enacted by the 1998 General Assembly (HB 550 and HB 565). The Commissioner and staff of the Department of Alcoholic Beverage Control appeared at the November 1998 committee meeting to brief members on efforts to implement changes directed by the legislation. The Commissioner noted that the primary thrust of the enacted legislation was to streamline the alcoholic beverage control process and make it more efficient. Specific issues discussed included:

- Simplification of the license application;
- Development of new computer software to streamline the licensing process;
- Upgrading of agent positions to improve recruitment and retention;
- Stepped up compliance checks on the sale of tobacco products to minors; and
- Increased license fees.

**Malt Beverage Education Program.** The 1998 General Assembly passed SB 207 which established the Malt Beverage Education Program through which private donations from the malt beverage industry would be matched with state funds to finance programs to combat under-age drinking. The Executive Director of the Kentucky Beer Wholesalers Association reported at the May 1999 committee meeting that a Malt Beverage Education Corporation had been formed and \$117,000 in private donations raised for programming. He detailed the efforts of four committees responsible for specified program areas:

- Project Graduation - Provides matching funds to high schools that have Project Graduation and Project Prom programs. Videos, posters, and \$75,000 had been distributed to 150 high schools throughout the state;
- Grants - Provides matching grants to other organizations to underwrite and support programs to prevent under-age drinking;
- Mentoring - Develops positive role models in schools by underwriting seminars and summer sports camps designed to enable high school students to become mentors to fellow students; and
- Statewide Advertising - Obtained the assistance of media professionals and celebrities to tape public service ads to be distributed to schools and aired on radio and television. A five-minute video featuring a prominent sports star was shown to the committee.

## Charitable Gaming

**Committee Update.** The Commissioner of the Department of Charitable Gaming appeared on three occasions to brief the committee on developments in the regulation of charitable gaming. Issues discussed included:

- Desire of the Department to raise its staffing cap from 43 to 66 employees based on a perceived enhanced role for the agency due to reorganization;
- Reduction of charitable gaming fee from .5% to .4% will result in a 14% (\$400,000) loss of revenues;
- Severe office space problem prompting the Commissioner to look for new offices;
- Additional emphasis being placed on enforcement;
- Reduction of the facility license fee for a facility in a small town, and an increase in the distributor's fee; and
- Effectiveness of the revised 40%.

In response to a question, the Commissioner also reported that riverboat casinos do not appear to be having an adverse affect on charitable gaming. He noted that there has been a leveling off of gross revenues, to be expected after five years, but no indication that charities, especially those close to a riverboat, are experiencing a downturn in revenues.

**Police Power for Investigators.** At the October 1999 committee meeting the Commissioner advised that he would be asking the 2000 General Assembly for charitable gaming investigators to be granted police power. He said that most of the investigators hired have extensive law enforcement backgrounds and could perform more effectively in certain situations with police power. In support of this request, he showed a Nashville television video taken undercover on a tour bus from Nashville to a charitable gaming facility in Franklin, Kentucky. During the trip, illegal gambling was conducted and a firearm ultimately confiscated. He also advised the committee that additional changes will be recommended but they have not yet been finalized.

**Committee Resolutions.** The Committee adopted resolutions at its November 1998 meeting honoring the Secretary of the Justice Cabinet and the former Director of the Division of Charitable Gaming for their contributions to the establishment of a charitable gaming regulatory program in Kentucky.

## Occupational Regulation

**Licensure of "Estheticians."** Estheticians, specialists in skin care, are licensed in 47 states, but not in Kentucky. To practice as an esthetician in Kentucky, one must be a licensed cosmetologist, involving an 1800 hour course of study which includes less than 100 hours on skin care. By contrast, an esthetician in Indiana must complete a 700 hour course with primary emphasis on skin care. A member of the committee had introduced a bill in the 1998 session to license estheticians in Kentucky, but it encountered opposition

from cosmetologists and did not pass. The sponsor appeared at the August 1999 meeting with two Louisville estheticians who are licensed in Indiana to discuss the need for licensure and to advise that she would be filing legislation again for the 2000 General Assembly.

**Regulation of Denturists.** HCR 40, enacted by the 1998 General Assembly, directed the Committee to conduct a study of the need to regulate denturists. A committee member who sponsored the resolution made a progress report on the study at the July 1999 committee meeting, and a final report at the October 1999 meeting. He showed a 15-minute video on denturity made by a consumer advocacy group in Washington State which addressed the economic and public health issues germane to the study. This legislator also advised that, based on what had been learned from the study, he would introduce a bill to allow the provisional licensing of denturists as a "pilot project." This legislation would allow the practice of denturity under controlled circumstances and would also create a broad-based oversight committee to monitor the experience and report whether such licensure should be made permanent.

## **Horse Racing**

**Race Track Licensing.** Several provisions included in 1998 HB 566 directed a more rigorous review of applicants for a license to operate a race track in Kentucky, particularly in regard to criminal background checks and financial stability. The Chairman and Executive Director of the Kentucky Racing Commission appeared at the January and March meetings to report on implementation of this legislation. The Chairman stated that the Commission had supported the legislative changes because of financial irregularities regarding the track formerly called Dueling Grounds in south-central Kentucky. The Executive Director summarized the new process that was being used and said that it was being followed with regard to the pending sale of Turfway Park Race Course.

**Sale of Turfway Park.** When the sale of Turfway Park was reported in the media, the Committee invited representatives of the three organizations involved in the purchase to appear at the January 1999 meeting. Since Turfway had become an important element in Kentucky racing, members were concerned about the future of the track and wanted to know more about the plans of the new owners. Members were also somewhat perplexed about the partnering of Keeneland with two groups involved in types of gaming that Keeneland had been opposed to several years earlier. The President of Keeneland, as spokesman for the group, said Keeneland became involved because of its desire to continue quality racing in Northern Kentucky. He explained that Keeneland entered into this particular partnership arrangement in recognition that gaming markets are changing and future success will be dependent on building business alliances with groups that offer expertise Keeneland does not have. He emphasized, however, that all three partners were committed to continue providing quality thoroughbred racing.

The partners could not address certain specific questions, such as their position on alternative (casino) gaming, since specific details of the business arrangement had not been

finalized. They agreed to return in March with more specific responses. At the March meeting, they presented a ten point development plan for Turfway Park, LLC, which will maximize the relative strengths of each organization. They also stated that while they will initially focus on racing, they would engage in alternative forms of gaming at Turfway Park if it became legal in Kentucky to do so.

**Breeders' Cup Tax Incentives.** The President of Churchill Downs appeared at the October 1999 meeting to discuss legislation from the 1998 session (HB 694) which would have given Churchill Downs a tax break for hosting the Breeders' Cup. He told the Committee that hosting the Breeders' Cup has become very competitive with other racing states, such as New York, California, and Florida, providing various incentives to attract the event. Churchill Downs was, therefore, seeking similar incentives to remain competitive.

The President of Churchill Downs noted the economic benefits Kentucky derives from hosting the Breeders' Cup, and he told the committee that Churchill had commissioned a study of the economic impact. He then introduced the University of Louisville economics professor who prepared the report. According to the report, the 1998 Breeders' Cup held at Churchill Downs resulted in \$13 million in new payroll and \$1.8 million in new state and local tax revenue. The conclusion drawn from the study was that new revenues generated by the Breeders' Cup would more than offset the amount lost from the proposed tax break.

### **NCLGS Conference**

The National Council of Legislators from Gaming States (NCLGS) held its summer conference on June 11 and 12, 1999, at the Seelbach Hotel in Louisville. NCLGS was formed in 1995 in response to the rapid-growth of gaming throughout the United States and the need for state legislators to have a forum through which they could discuss issues of common concern and share ideas. Committee members were approved by LRC to attend the conference in lieu of a June committee meeting. Several committee members and staff have been involved with NCLGS since its inception.

Over the past two years, Kentucky legislators and staff have been instrumental in a NCLGS project to develop model legislation based on Kentucky's charitable gaming law. The final product, a "Model State Charitable Gaming Act," was adopted by NCLGS at this conference, and Kentucky legislators and staff who participated in this effort were awarded plaques in recognition of their contributions to the project.



**REPORT OF THE 1998-99  
INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT**

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

Sen. Benny Ray Bailey  
Sen. Glenn Freeman  
Sen. David Karem  
Sen. Ed Miller  
Sen. Elizabeth Tori  
Rep. John Adams  
Rep. Bo Ausmus  
Rep. Ricky Cox  
Rep. Bob DeWeese  
Rep. J. R. Gray  
Rep. Joni Jenkins  
Rep. Marie Rader  
Rep. Roger Thomas

Sen. Walter Blevins  
Sen. Ernest Harris  
Sen. Alice Forgy Kerr  
Sen. Julie Rose  
Sen. David Williams  
Rep. Adrian Arnold  
Rep. Jim Callahan  
Rep. Ron Crimm  
Rep. Jon Draud  
Rep. Charlie Hoffman  
Rep. Thomas McKee  
Rep. William Scott  
Rep. Jim Wayne

LRC Staff: Jamie Jo Franklin, Mark Mitchell, Donna Weaver, and Cheryl J. Walters

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**

**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**Subcommittee on Emergency Services Dispatchers**

**Rep. Mike Weaver, Chair**

Rep. Sheldon Baugh  
Rep. Tom Burch  
Rep. Ricky Cox  
Sen. Glenn Freeman  
Rep. Drew Graham  
Rep. Jeff Hoover  
Sen. Vernie McGaha

Rep. Tom McKee  
Rep. Vernon Miniard  
Rep. Tom Riner  
Sen. Julie Rose  
Rep. Dottie Sims  
Sen. Robert Stivers  
Rep. Roger Thomas

**Sen. Paul Herron, Jr., Ex-Officio**

**Rep. Steve Riggs, Ex-Officio**

**Subcommittee on Planning and Land Use Management**

**Sen. Ernie Harris, Co-Chair**

**Rep. Jim Wayne, Co-Chair**

Sen. David Karem  
Rep. John Adams  
Rep. Jim Callahan  
Rep. Bob DeWeese  
Rep. Joni Jenkins

Sen. Elizabeth Tori  
Rep. Adrian Arnold  
Rep. Ron Crimm  
Rep. J. R. Gray  
Rep. Marie Rader

Rep. William Scott

**Sen. Albert Robinson, Jr., Ex-Officio**

**Rep. Steve Riggs, Ex-Officio**

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

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

### **COMMITTEE ACTIVITY**

The Interim Joint Committee on Local Government met thirteen times during the 1998-99 interim period. The Committee formed subcommittees for the interim, reviewed executive branch activities as required by statute, and met with various local government interest groups in order to determine their legislative needs for this interim.

At its first meeting, the Committee reviewed the 1998 Kentucky Small Cities Community Development Block Grant Program (CDBG) as required by KRS Chapter 45. After its review of the block grant program, which was presented by the Department for Local Government (DLG), the Committee made two recommendations to LRC regarding the 1998 program: that the May 1 deadline for pre-applications for 1998 be extended to June 1 and that the Governor's Advisory Commission on Housing review the housing component of the CDBG program and locate, analyze, and identify the source and usage of all housing funds that come into the state. Representatives of the Kentucky Federation of Appalachian Enterprises, the Homeless and Housing Coalition of Kentucky, and Community Ministries of Hazard also commented about their concerns regarding the proposed decrease in funding of the housing component of the CDBG program. The Committee forwarded their recommendations and the public comments to LRC for final disposition.

For their second meeting, the Committee traveled to Louisville where they met in conjunction with the annual meeting of the Kentucky League of Cities. While in Jefferson

County, the members toured the City of Jeffersontown and met with officials. During a public hearing portion of their meeting they heard requests for potential research topics for the Committee's interim activities from the Department of Local Government, the Kentucky Association of Counties (KACo), the Kentucky League of Cities, and the Kentucky Council of Area Development Districts. They also reviewed an executive order relating to a minor reorganization in the Kentucky Housing Corporation.

In September, the Committee went to Fort Mitchell where they met in conjunction with the Governor's Local Issues Conference. At this meeting, they heard presentations on the newly created Kentucky Renaissance Program. The program is an initiative put forth by the Governor, the Kentucky Housing Corporation, and the Kentucky League of Cities in an effort to revitalize Kentucky's downtowns. The Committee also heard from the interim director of the recently reorganized Chase Local Government Law Center. The Chase College of Law had absorbed the functions and expanded the services of the now defunct Municipal Law Center which had been operating for a number of years under a memorandum of agreement between the Department of Local Government and Chase Law School. The center has expanded its services to now include counties and special districts as well as cities.

In November, the Committee traveled back to Louisville where they held a joint meeting with the Special Task Force on Local Government Organization. The meeting was scheduled to coincide with the annual meeting of the Kentucky Association of Counties. The primary speaker for this meeting was Kentucky's State Historian, who is also a professor of history at Georgetown College. He gave an overview of the formation of Kentucky's county governments. The Commissioner of the Department for Local Government also presented information concerning his department's interpretation and actions relating to recently enacted legislation that seems to require the adoption of personal property taxes by local governments. He said that at this time his agency does not intend to penalize cities that have not levied a personal property tax. He noted that taxation of personal property may be an issue which should be further discussed by the Committee during the remainder of the interim.

In 1999, the Committee first met in February and reviewed the work and accepted the final report of the Subcommittee on Emergency Services Dispatchers. In addition, the committee gave approval to three administrative regulations relating to fire protection instructors, the volunteer fire department loan fund, and the Kentucky Building Code.

The Committee met again in March and saw a presentation relating to the activities and organizational structure of Kentucky's fifteen area development districts (ADDs). The executive directors of the Barren River and Big Sandy Area Development Districts and the Information Director of the Kentucky Council of Area Development Districts made the presentation. The presenters also discussed the need for the development of a state-wide infrastructure development plan which was in the initial planning stages. Members also discussed the need for legislation which would allow legislators to serve on the ADD boards of directors.

When the Committee met in April, members were given a presentation by a staff member of the Tennessee Advisory Commission on Intergovernmental Relations relating to their efforts in developing growth management legislation in 1998. Kentucky's Insurance Commissioner then gave a presentation relating to the need for a statewide collection system for municipal insurance premium taxes. While the Commissioner did not make a recommendation as to who should collect the tax, he said that such a system would undoubtedly improve the accuracy and efficiency of the collection and distribution process for all parties. The final order of business at the April 1999 meeting was the review and recommendation of approval to LRC of the 1999 Kentucky Small Cities Community Development Block Grant Program. The Commissioner of the Department for Local Government and his staff were on hand to present the block grant application and discuss the proposed changes in the program for the upcoming year. The Executive Director of the Housing and Homeless Coalition of Kentucky said that while they had been opposed to the amount of funding which had been allocated to affordable housing under the CDBG program the last few years, they support this year's program because there was a net gain for affordable housing in the proposed 1999 program.

At their May 26th meeting, the Committee gave approval to a pre-filed bill relating to the membership of area development districts' boards of directors. The proposal would allow legislative members to serve on these boards. The Committee also reviewed and gave approval to administrative regulations relating to the uniform financial information reports administered and received by the Department for Local Government, the Kentucky Standards of Safety Codes and plumbing licenses regulated by the Department for Housing, Buildings, and Construction. The last order of business was a presentation on the status of the Governor's Water Resource Development Commission. The Executive Director and Geographic Information Systems Director for the Commission explained the progress of the Commission to date in efforts to develop a statewide inventory of existing water lines and tanks and the plan to provide potable water to all homes in the Commonwealth by the year 2020.

In August, the Committee held its tenth meeting in Louisville in conjunction with the Governor's Local Issues Conference. At that time, the President of the Kentucky Coroner's Association, representatives of the State Medical Examiners Office, and a large contingent of coroners from around the state came before the Committee to discuss the role and duties of coroners. Questions about training; elected vs. appointed positions; salary; coroner duties vs. police activities at crime scenes; the creation of a possible conflict of interest by the ownership of local funeral homes by coroners, who authorizes autopsies; and the need for coroner's inquest powers were discussed.

The last three meetings of the Committee were a series of public hearings held in conjunction with the Task Force on Local Government Organization on trips to south central and western Kentucky. The first public hearings were held on September 27-29 in London (Laurel County), McKee (Jackson County), Corbin (Whitley County), and Mt. Vernon (Rockcastle County). The second round of hearings were held on October 6-8 in

Mayfield (Graves County) and Paducah (McCracken County). At these hearings members heard testimony from state and local officials, citizens, and special interest groups concerning the possibility and need for the consolidation of counties in the Commonwealth.

In addition to the discussion on county consolidation, at the Paducah meeting the Committee also met with officials from the Kentucky League of Cities (KLC) and with the mayors of Paintsville and Lexington regarding KLC's legislative proposals for the 2000 General Assembly. The Executive Director said that their legislative committee had not approved any specific legislation but that they would be contacting members prior to the session. Members of the Committee also questioned the Mayor of Lexington about her communities' lack of action in disposing of confiscated weapons. She said that her police chief and several officers were opposed to putting weapons back on the streets and until they had a more time specific legislative directive, they would not be disposing of them.

Also at this meeting the Commissioner of the Department for Local Government appeared before the Committee to make the Department's legislative requests for the upcoming session, which included:

- Requiring all local governments and officials to have their financial reports submitted by June 30 or the first of July;
- Requiring all cities, counties, and special districts' public funds be adequately bonded;
- Making it a Class D felony with a \$5,000 fine for counties to violate current law relating to spending a certain percentage of their budget in a certain part of the year;
- Amending the requirement that budgets have to be certified within ten days after certification of assessment for the Revenue Cabinet;
- Allowing counties to have the same authority as cities with regard to code enforcement boards for fines and penalties; and
- Permitting occupational tax collectors to give receipts only if requested and if a self-addressed stamped envelope is included.

The Committee also gave approval to an administrative regulation relating to changes in the policy manual of the state local finance officer and an executive reorganization order relating to the establishment of the position of a General Counsel, both of which related to activities of the Department for Local Government.

With the conclusion of the meeting in Paducah, the Committee finished its interim activities.

## **Subcommittee on Planning and Land Use Management**

The Interim Joint Committee on Local Government formed the Subcommittee on Planning and Zoning to study the ways that Kentucky's planning and zoning law can be improved. The planning and zoning laws in Kentucky, found in KRS Chapter 100, have not had an extensive, chapter-wide review since their inception in 1966, although several amendments were enacted in 1986.

The Subcommittee has met thirteen times. The first meeting, held on August 26, 1998, was mainly organizational in nature. The Chairman noted that farm land is decreasing from the increased use of that land for industrial and residential purposes. He said that Kentucky counties and cities often take a "reactive" stance to development. They end up having to deal with land use issues after they are problems rather than dealing with them beforehand. He indicated that planning may be the key to averting these land use problems, but that local resources are usually in short supply, so state help may be necessary to convince the local governments without land use laws to adopt them. Also at this meeting, a representative of the Kentucky Association of Counties indicated that there is a lack of citizen information on land use issues. A Subcommittee member stated that creative ways must be initiated to help people understand the benefits of planning and zoning, and the interests of all parties involved must be served.

The second meeting of the Subcommittee was held on September 23. Its featured speaker was a representative from the American Planning Association (APA). He addressed two main topics: the concept of "smart growth" as promoted by the APA and an evaluation of Kentucky's planning and zoning laws. He said that the "smart growth" concept was established in 1991 and that the model has a distinct philosophy, that being: (1) there is no single, "one-size fits-all" model for planning statutes; (2) model statutes should provide for planning that goes beyond the shaping and guidance of physical development; (3) model statutes should build on the strengths of existing organizations that undertake and implement planning; (4) planning statute reform should not look just at regulations but also at provisions for infrastructure and property taxation; (5) model statutes should account for the intergovernmental dimension of planning and development controls; (6) model statutes should prescribe the substantive contents of plans; (7) model statutes should anticipate the potential for abuse of planning tools and correct for it; (8) model statutes should use familiar terminology; (9) model statutes should expressly provide for citizen involvement; (10) model statutes should allow flexibility in planning administration; and (11) model statutes should be based on an appraisal of what has worked.

Regarding the status of Kentucky's planning and zoning laws, the APA representative told the Subcommittee that he had reviewed KRS Chapter 100 and KRS Chapter 147, which cover local planning and land development control authority as well as state and substate planning statutes. He stated that on the whole, Kentucky's planning laws are much better than the vast majority of planning statutes in the United States. He said the statutes are clearly written, emphasize intergovernmental cooperation, are sensitive to

problems of abuse, and underscore the need for planning to support zoning and subdivision control. He added that the statutes have a nice balance between the procedural and substantive dimensions of planning.

The APA representative also made a number of suggestions relating to the current statutes that he thought the Subcommittee might want to address: (1) Delete the statutory reference to the "national planning board," which was abolished by Congress in the mid 1940's, and revisit the functions of the Governor's Cabinet to reflect current responsibilities; (2) Include a comprehensive set of definitions to eliminate ambiguity over the meaning of a statute, especially when local governments will have to interpret it, and review the case law interpreting these definitions and determine whether they should be modified; (3) Create a section that describes or summarizes the responsibilities of a planning commission and add a process for selecting commission members as well as a requirement that planning commission members receive periodic training; (4) Discuss the statutes on the comprehensive plan (KRS 100.183 et seq.) with planners and planning commissions as to whether the descriptions of the elements are complete and whether other elements should be added such as a program of implementation; (5) Review the list of zoning regulations with planners in the state to find out if it reflects current practice; (6) Review what should be included in zoning regulations; (7) Require written findings by the board of zoning adjustments for variances; (8) Spend time on detailing the process by which permits are applied for and enforced; (9) Review the official map legislation; and (10) Consider uniform engineering standards and design a set of specifications for the state that are periodically reviewed and amended just like a state building code.

At its next meeting, the Subcommittee met with executive branch representatives from the Department for Local Government; Natural Resources and Environmental Protection Cabinet; Cabinet for Economic Development; and the Heritage Council to discuss planning and land use issues of concern to their agencies.

At successive meetings, the Subcommittee heard from other state, local, and national representatives who also have interests in the planning and land use management area. From this group of speakers the Subcommittee heard from the Executive Director of Bluegrass Tomorrow, a private, non-profit organization dedicated to encouraging "smart growth" in the central bluegrass region around Lexington. She said "smart growth" is not a question of whether or not to grow, but how to best do so. She enumerated the costs of urban sprawl--one of the effects of unplanned growth. She said when land consumption out paces population the growth puts strains on infrastructure. Traffic congestion and the destruction of greenspace also have costs. In terms of the Bluegrass area, efforts are being directed toward preserving the distinct character and boundaries between Lexington and the surrounding cities--such as Nicholasville and Georgetown--to reflect the early planners' design. She indicated that her group's intent was to preserve greenspace as well as promote "smart growth," both of which contribute to preserving the local area's rural identity.

The Subcommittee also heard from the Executive Director of the Kentucky League of Cities (KLC) who informed them that KLC is preparing to bring forth specific legislative proposals for amending KRS Chapter 100 during the 2000 General Assembly. She indicated that among those proposals would be an emphasis on city growth management with considerations for economic benefits from that growth. She said the living and working patterns of people are changing and any future planning and zoning laws must accommodate these changing patterns for balanced growth. She indicated that KLC is interested in promoting growth which is balanced between preservation and economic health. She also said that the league is interested in promoting growth that preserves the local "charm" and distinction of Kentucky's communities. She further suggested that some of the threats to Kentucky's cities are the "coring out" of people from our central cities. People migrate beyond the city limits for various reasons, bringing with them new sets of problems such as the provision of water and sewerage lines. She also noted the KLC is preparing to urge tax reform in regard to city-county tax base sharing. She noted that tax revenues can affect planning and zoning issues in that taxes are assessed and collected on a border-specific basis.

Another speaker before the Subcommittee was the Director of the Kentucky Resources Council. He led a discussion on landowners' issues relative to land use. He said that he often receives calls from people in crisis as a result of unwanted land uses' jeopardizing property values and preventing the full enjoyment of their properties. He stressed that the freedoms one person enjoys must balance with the freedoms of another. He added that regions without planning and zoning are often targeted by developers for development that may be considered nuisances to the residents. He cited landfill legislation as being a good example of what the legislature can do to ensure that local governments take responsibility for the siting of various land uses. He noted that local governments need to understand that they can control these land uses through planning and zoning. He suggested that the legislature examine the statutes for incentives and disincentives for encouraging local governments to do comprehensive planning. He said small cities and counties should receive technical and financial assistance to do this. He also suggested consideration of some process issues that could smooth the way for planning and zoning: the right of redress-- involving citizens in the process without the fear of "slapsuits" designed to bankrupt dissenters; procedural due process; dispute resolution mechanisms; representational issues and ethics codes; appellate processes, including informal review procedures; limitations on ex-parte communication between officials; elimination of utility exemptions from planning and zoning; and zoning regulations that reflect the established plans.

At its December 1988 meeting, representatives of the Kentucky Homebuilder's Association, the Kentucky Association of Realtors, the Kentucky County Judge/Executives Association and selected county judges/executive spoke to the Subcommittee. Each discussed their varying experiences with the planning and zoning process and made recommendations for the Subcommittee's future activities.

In February, the Dean of the UK School of Architecture spoke of a new concept of building called "New Urbanism." He said that the new movement of "New Urbanism" was a way of building communities that involved landscapers, architects, and the general citizenry. At the end of his discussion, he indicated that Kentucky would do well to have a comprehensive state plan.

Also at this meeting, a local expert on agriculture law discussed the agricultural considerations of land use. He indicated that Chapter 100 does not go far enough to protect agricultural land. He indicated that the definitions of "agricultural use" and "prime farmland" were inadequate. He also indicated that KRS 100.203 relating to zoning regulations should be more comprehensive.

The sixth meeting of the Subcommittee, in March 1999, focused on the "Purchase of Agricultural Easements Program"(PACE). A brief history and overview of the program in Kentucky was given. A representative of the Office for Environmental Outreach, which oversees the program, discussed the administration of the program which severs the development rights from the rest of the land and pays the owner that percentage of the value of the land. As of the date of the meeting, 55 applications from 26 counties had been received, totaling \$12 million. The Subcommittee was also told that the state was able to spend only \$1.5 million per year on the program. A representative of the Kentucky Farm Bureau applauded the efforts of the PACE program but felt that the money would be better spent on agricultural research and extension, and cost sharing for conservation practices.

Staff of the Tennessee Advisory Commission addressed the Subcommittee in April on Tennessee's efforts toward planning law reform which were initiated from a lawsuit relative to annexation. The main thrust of Tennessee's reform was the establishment of a comprehensive growth policy within the state that eliminated fear-inspired annexation or incorporation, establishment of incentives for annexation, matching the timing of development and the provision of public services, stabilization of each county's education funding base, and minimization of urban sprawl.

At the next meeting, the director of the Kentucky Long Term Policy Research Center discussed trends affecting rural land and its preservation. He identified four factors creating these trends: rise of the wired community; shifting economics; deepening social divide; and changing governmental responsibility. A professor of the UK College of Agriculture gave a "snapshot" of Kentucky's farmland. He indicated that farmland is decreasing. He said that 98% of the state's farms are family owned and operated, with 59% being part-time farming operations. He said that the outlook in the short run for farms was good, but that several factors were going to make it harder for small farms to remain in production.

In June, staff of the National Trust for Historic Preservation met with the Subcommittee and discussed the negatives of urban sprawl. She said that the Trust is concerned and is interested in "smart growth" because sprawl devastates small town main

streets and historic downtowns. She noted that preservation is a principal alternative to sprawl while being a cornerstone of "smart growth."

A nationally renowned Florida-based architect whose firm has had extensive expertise in neo-traditional developments addressed the Subcommittee at its tenth meeting regarding alternative development patterns. He said Kentucky had damaged itself very little by sprawl. He noted that his firm supports planning codes that promote compact cities and warned the Subcommittee against passing legislation that would promote sprawl. He said he thinks that a model planning code should be supplied to cities as an option. It should be one that supports the existing character of the city and also allows it to grow in that character.

The Subcommittee took the last testimonies from the public at its September meeting. At that time the members heard from three county judges/executive, who discussed their perspectives on planning and zoning . One stated that there should be no statewide planning and zoning while the two others felt statewide planning and zoning would benefit the state.

In October, the Subcommittee reviewed an outline of potential legislation relative to "smart growth." The presiding co-chair of the Subcommittee told the members that the Subcommittee would not be endorsing any particular legislation in its final report for the 2000 Regular Session of the General Assembly since none had been approved. He noted that the proposal under review would not be included in their final report.

The last meeting of the Subcommittee was dedicated to finalizing the report of the Subcommittee.

### **Subcommittee on Emergency Services Dispatchers**

1998 HCR 94 directed the Interim Joint Committee on Local Government to undertake a study of current and future emergency dispatch center needs, personnel needs, and types of training and certification needed for dispatchers; and the ability of state agencies to deliver the needed training.

The Subcommittee on Emergency Services Dispatchers was formed in August and has met twice since that time. At the organizational meeting in September, the Subcommittee heard testimony from the sponsor of 1998 HCR 94. The bill's sponsor stated that he had been approached to sponsor legislation organizing a study of emergency services dispatchers and the content and adequacy of their training and certification. The Vice-President of the Association of Public Safety Communication Officials testified that there were two main problems that he would like to see resolved. The first is that certified training, in the specialty area used by dispatchers on a daily basis, needs to be offered to all dispatchers. These specialty areas include policing, fire safety, emergency medical services, and hazardous materials. He explained that in his county, dispatchers receive all types of calls regardless of subject matter, while in a neighboring county, the dispatchers

are trained to answer either fire, police, or emergency medical services calls only. The Association representative suggested that a required two to three day course be provided to emergency service dispatchers in the state for each specialty area. The second problem identified was reimbursement for fire dispatchers. He reported that in Fayette County there are twelve individuals who serve as fire dispatchers but who cannot receive free specialized fire dispatcher training by the Justice Cabinet because they only dispatch for the fire department. He further explained that if the twelve fire dispatchers participated in dispatcher training, it would not be paid for by the state but would have to be paid for by the Lexington/Fayette Urban County Government. The Subcommittee was also told that Lexington/Fayette County is the only community he is aware of with separate fire and police dispatch centers. This information caused some Subcommittee members to query that this might be more of a local issue than a statewide problem.

The second meeting was held in November and Subcommittee members heard from a variety of individuals involved with training and certification of emergency services dispatchers. Representatives from the Department of Criminal Justice Training at Eastern Kentucky University (EKU) described the training provided for emergency services dispatchers. They explained that only 22 states offer formal training for dispatchers and that the Kentucky program is rated number one. The Department of Criminal Justice Training offered at EKU trains approximately 2500-2700 telecommunicators or dispatchers each year. KRS 15.530 defines "law enforcement telecommunicators" as "any full-time employee, sworn or civilian, whose primary responsibility is to dispatch law enforcement units by means of radio communication for an agency which is part of or administered by the state or any political subdivision." They explained that because this statute only specifically references "law enforcement telecommunicators," training for dispatchers from federal agencies including Fort Campbell and Fort Knox, fire departments, and Fish and Wildlife employees, is not paid for by the state. These agencies, which make up only 10-15% of participants, must pay for the training of their dispatchers while the state is paying for 85% of the total amount of dispatcher training that is being conducted, as mandated by KRS 15.530-15.590. Out of the 10-15% of unfunded participants, only the Lexington/Fayette Urban County Fire Department has complained about the lack of funding.

The Subcommittee also heard testimony from the Program Director for Fire Rescue Training with the Kentucky Community Technical College Systems (KCTCS), the Grant Administrator with the Commission on Fire Protection Personnel Standards and Education, and the Branch Manager, Emergency Medical Services Branch, with the Cabinet for Health Services. The consensus of these speakers appeared to be that the training offered by the Justice Cabinet at EKU was adequate and that the complaints heard from the Lexington/Fayette Urban County Fire Department are an isolated problem. The speakers also favored the national trend of one per county central dispatch center that provides all services and is governed by its own board. It was explained that this keeps operating costs down and helps avoid duplication of services.

Upon hearing the above testimony, the Subcommittee decided that its focus would not be on the need for more specialized certification of dispatchers, which could encourage duplication of services, but instead would focus on how better to provide or encourage 911 services throughout the state and to learn more about the 911 programs and their dispatchers across the state.



**REPORT OF THE 1998-99  
INTERIM JOINT COMMITTEE ON SENIORS,  
MILITARY AFFAIRS, AND PUBLIC SAFETY**

**Rep. Mike Weaver, Co-Chair  
Sen. Paul Herron, Co-Chair**

Rep. Woody Allen	Sen. Gerald Neal
Rep. Sheldon Baugh	Rep. Fred Nesler
Rep. Carolyn Belcher	Sen. Joey Pendleton
Rep. Larry Belcher	Rep. Billy Polston
Rep. Kevin Bratcher	Rep. Steve Riggs
Sen. Tom Buford	Rep. Tom Riner
Rep. Tom Burch	Sen. Albert Robinson
Rep. Danny Ford	Sen. Dick Roeding
Sen. Glenn Freeman	Rep. Charles Siler
Rep. Gippy Graham	Sen. Katie Stine
Rep. Jodie Haydon	Rep. Jim Thompson
Rep. Jeffrey Hoover	Sen. Elizabeth Tori
Sen. David Karem	Rep. Susan Westrom
Sen. Ed Miller	Sen. Jack Westwood

LRC STAFF: Clint Newman, Gilmore Dutton, Emily Fryer, Mike Greenwell, Alisha Miller, Robyn Kemper, Wilda Bond, Mary Scott Lee, and Rose Mack

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**

**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**SUBCOMMITTEE ON SENIORS**

**Rep. Susan Westrom, Co-Chair**

**Sen. Gerald Neal, Co-Chair**

Sen. Tom Buford  
Sen. Dick Roeding  
Rep. Woody Allen  
Rep. Tom Burch  
Rep. Tom Riner

LRC STAFF: Gilmore Dutton, Emily Fryer and Rose Mack

**SUBCOMMITTEE ON MILITARY AFFAIRS**

**Rep. Gippy Graham, Co-Chair**

**Sen. Glenn Freeman, Co-Chair**

Sen. Joey Pendleton  
Sen. Elizabeth Tori  
Rep. Sheldon Baugh  
Rep. Larry Belcher  
Rep. Danny Ford

LRC STAFF: Mike Greenwell and Wilda Bond

**SUBCOMMITTEE ON PUBLIC SAFETY**

**Rep. Fred Nesler, Co-Chair**

**Sen. David Karem, Co-Chair**

Sen. Katie Stine  
Rep. Carolyn Belcher  
Rep. Kevin Bratcher  
Rep. Jeffrey Hoover  
Rep. Billy Polston

LRC STAFF: Clint Newman and Mary Scott Lee

**SUBCOMMITTEE ON VETERANS' ISSUES**

**Rep. Jodie Haydon, Co-Chair**

**Sen. Ed Miller, Co-Chair**

Sen. Albert Robinson

Sen. Jack Westwood

Rep. Steve Riggs

Rep. Charles Siler

Rep. Jim Thompson

LRC STAFF: Alisha Miller and Mary Scott Lee



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

**JURISDICTION:** Matters pertaining to senior citizens; problems of aging; military affairs and civil defense; national guard; veterans; veterans' rights, benefits and education; veterans' nursing homes; military memorials and cemeteries; fire prevention and protection; foods, drugs and poisons; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; garbage and refuse disposal.

### **COMMITTEE ACTIVITY**

During the 1998-99 Interim, the Interim Joint Committee on Seniors, Military Affairs and Public Safety held seven meetings prior to November 1, 1999.

The Committee was organized into four subcommittees: the Subcommittee on Seniors, the Subcommittee on Military Affairs, the Subcommittee on Public Safety, and the Subcommittee on Veterans' Issues. A summary of activity of the full Committee and the subcommittees follows.

Major topics before the Interim Joint Committee on Seniors, Military Affairs and Public Safety included Senior Demographics and Population Growth in Kentucky; Defense Contracting in Kentucky; Efforts to attract Defense Related Industries; Redevelopment of Closed Military Facilities; Kentucky DEPSCoR Program; WWII Memorial; Kentucky Department of Military Affairs Report on Training and Doctrine Command Visit; Elder Abuse; U.S. Army Recruiting Issues; Y2K - Consequence Management; National Guard Y2K Plan, Junior ROTC Program in Kentucky; and the National Guard 2000 Legislative Package.

In March 1999, the Committee heard a presentation on the Committee's jurisdiction, organization of the subcommittees, and issues that the Committee and subcommittees would be discussing.

In May, the Director of the Kentucky State Data Center at the University of Louisville discussed the major issues for the 21st century. The major issues he discussed were *Education* - Kindergarten through the age of 80; *Diversity* - taking care of minorities; *Older and Wiser* - between 2010 and 2020, Kentucky's entire population growth will be in the 65 and over category; *Work harder and longer* - re-educate and retrain people to work 50 or 60 years; *Sick care vs. Health care* - creating a sick-care system instead of a health-care system devoted to prevention and wellness promotion; and *Reinventing Ourselves* - the need to think and work smarter and longer.

At the May and June meeting the Committee heard from representatives from the Economic Development Cabinet on the impact of defense contracting on Kentucky's economy and efforts being used to attract defense related industries to Kentucky. They said that Kentucky Defense Contracting is an invisible job factory. There are 17,970 jobs

created in Kentucky from defense contracting, which creates tax revenue of about \$35,935,181 annually.

Also at the June meeting, the President of the Technology Park of Greater Louisville (the old Louisville Naval Ordinance Station) presented primary elements of a plan for redevelopment of the closed military facility.

In July, representatives from the University of Louisville provided information on the Kentucky Experimental Program to Stimulate Competitive Research efforts to obtain research and development grants from the Department of Defense. Also on the agenda for the this meeting was the Commissioner of the Department of Veterans' Affairs who presented options for Kentucky's support of the WWII Memorial and State Cemetery Grant Program. He recommended to the Committee that a resolution or letter be written to the Secretary of Veterans Affairs, showing Kentucky's interest in funding the State Cemetery Grant Program. The Executive Director of the Kentucky Commission on Military Affairs gave a brief overview on a visit he had with members of the Congressional Delegation to discuss the Training and Doctrine Command and the future of Fort Knox.

The August meeting took place in Fort Knox, Kentucky, where members of the Committee witnessed a Combined Arms Live Fire Training Exercise presented by the United States Army Armor Center.

At the September meeting, the Committee heard from representatives from the Attorney General's Office on contest fraud and telemarketing fraud relating to the elderly, and identity theft. A representative from the U.S. Army Recruiting Command discussed a shortage of Army personnel. He explained that all of the public high schools provide access to the students, but not all of them provide a student directory to recruiters. A motion was made for a resolution to be written to the 55 schools that do not provide a school directory to the Army. Also at this meeting the Committee heard from representatives of the Kentucky Division of Emergency Management and the National Guard on preparations being made to respond to the challenges that Y2K may present. The final action at this meeting was the approval to send a letter to members of the Kentucky Congressional Delegation asking them to adopt the Cunningham Amendment to the federal Budget Bill to restore funding of the Selective Service System as its 1990 level, approximately \$25 million.

At the October meeting, a representative of the U.S. Army Cadet Command presented an overview of the Junior ROTC Program in Kentucky. A discussion of proposed legislation for the 2000 Session on "Troops to Teachers" as an alternative option for teacher certification was presented. A presentation was made on the Kentucky National Guard's 2000 Session Legislative Package, including Legislative, Budget and Capital Construction priorities.

The final November meeting will consider the abuse of powers of attorney granted by seniors, veterans' license plate legislation, certification and licensing of transitioning

military personnel, a legislative update from the Department for Veterans' Affairs, and prefiled bills.

### **Subcommittee on Seniors**

During the 1998-99 Interim, the Subcommittee on Seniors of the Interim Joint Committee on Seniors, Military Affairs, and Public Safety held six meetings. The following subjects were considered by the Subcommittee:

1. Services provided for the senior citizens of Kentucky through the Office Of Aging Services, Cabinet for Health Services, and administered through the Area Agencies on Aging in the 15 Area Development Districts throughout the state;
2. The relationship between the Area Agencies on Aging and the Area Development Districts, and delivery of services by the Area Agencies on Aging;
3. The need for increased funding for community-based services for senior citizens;
4. The possibility of long-term care insurance as a pre-tax benefit for state employees;
5. Services offered through the Office of Senior Protection, Office of the Attorney General, and senior protection issues such as elder abuse, identity theft, sweepstakes fraud, and power of attorney fraud;
6. Status of the assisted living industry in Kentucky, the need for legislation establishing a mandatory certification process for assisted living facilities, conflicting issues regarding licensing of assisted living facilities in relation to services provided by licensed nursing facilities, and the difference between nursing facilities and personal care homes;
7. The high cost of prescription medicine, how the state can assist low-income families with the purchase of prescription drugs, and spend-down policy;
8. The Kentucky Seniors Games, and request for funding;
9. The Nun Study, an on-going study on Alzheimer's Disease being conducted at the Sanders-Brown Center on Aging of the University of Kentucky; and
10. Programs, services, and legislative initiatives of the American Association of Retired Persons, the Kentucky Assisted Living Facilities Association, the Kentucky Association of Adult Day Centers, the Kentucky Association for Gerontology, the Kentucky Association of Health Care Facilities, the Kentucky Home Health Association, the Ohio Valley Appalachia Regional Geriatric Education Center, the Sanders-Brown Center on Aging, and the Senior Corps Senior Companion Program.

## **Subcommittee on Military Affairs**

During the 1998-99 Interim, the Subcommittee on Military Affairs of the Interim Joint Committee on Seniors, Military Affairs, and Public Safety held four meetings.

At the April 1 meeting, the Executor Director of the Kentucky Commission on Military Affairs gave an overview of the extent of military presence in Kentucky and its economic importance relative to military installations, defense contracting, national security, and the impact of future Base Realignments and Closures (BRACs). The Task Force learned that Kentucky's military is the largest employer in the Commonwealth, has the fourth largest payroll among Kentucky industries, is tenth among the 50 states in number of active duty, having 66,000 military personnel, spending \$3 billion annually, approximately 360,000 veterans and 50,000 retirees, and had Department of Defense (DOD) contracts of \$1.2 billion. The Subcommittee also was briefed on the following DOD Initiatives for the 21<sup>st</sup> Century: leverage technology for more lethal weaponry; use of lighter, small forces; preparation for increased anti-terrorist/urban operations; restructuring and refocusing of Army Reserve Component Force; adoption of best business practices; outsourcing of commercial oriented activities; consolidation and streamlining of organizations; and reduction of the cold war infrastructure (realignments/BRACs).

At its second meeting, in June 1999, the Subcommittee learned about the National Guard structure, its different divisions, facilities relating to state and federal funding levels, the Youth Challenge Program and its accomplishments, the Governors Marijuana Strike Force, and how the Guard coordinates with state and local police as a team in the identification and destruction of these plants. Also discussed was the Kentucky Air National Guard, their mission statement, funding, and service to the state, including their involvement with the Kentucky National Guard and others in stamping out drugs. The Subcommittee was asked to consider support for the guard's future needs with the Tuition Assistance Program; Facilities Maintenance Budget, including funds to update the State Emergency Operations Center; Expansion of the Wendell Ford National Guard Training Center; and 25 year old Armory needs for FY 2000/02. The Committee heard an overview from staff of issues for the Subcommittee's future consideration and direction.

The Subcommittee convened its third meeting on July 1, 1999. The Kentucky Division of Disaster and Emergency Services (KDEM) and the Kentucky National Guard gave an overview of the year 2000 (Y2K) situation and their respective emergency preparedness plans, including reaction to consequence management and how the National Guard, KDEM, state and local officials would work together in disaster scenarios. The National Guard's State and Federal Mission combines with the Federal Emergency Management Agency Guidelines in creating the plan. Then, state civil defense, National Guard, and law enforcement organizations combine to provide the structure, the manpower, the equipment, and facilities to activate the state Y2K and other emergency

preparedness plans. The Subcommittee learned that there will be no major disasters or catastrophes in Y2K, but some minor or major annoyances.

At its September 2 meeting, the Subcommittee heard an overview of the US Army Junior ROTC (JROTC) program in Kentucky. The JROTC mission statement, objectives, program of instruction, success statistics, cadet command delineation, expansion, and current programs in the 2<sup>nd</sup> region was discussed. An explanation was given on how Kentucky High Schools can start a Junior ROTC program and how JROTC funding and state and local assistance can be obtained.

The Director of the Youth Challenge Program (YCP) reported that the mission of YCP is to train and mentor selected high school dropouts to become contributing members of society in a 22 week residential military-style environment which provides a secure network of support for the individual. He also discussed the eligibility criteria and eight core components, including basic education/GED classes, citizenship, life coping skills, leadership/fellowship, job skills, health/hygiene, physical training, and community service.

The Subcommittee also heard from the State Director, Selective Service System (SSS), that the House Appropriations Committee had sent HB 2684 (the FY 2000 VA, HUD, and Independent Agencies Appropriations Bill) which would downsize the SSS, to the full house for passage. The State Director requested the Subcommittee to write the Kentucky Congressional Delegation requesting that they fully fund the SSS.

### **Subcommittee on Public Safety**

During the 1998-99 Interim, the Subcommittee on Public Safety of the Interim Joint Committee on Seniors, Military Affairs, and Public Safety held one meeting. At this meeting a representative from the Kentucky Home Builders Association discussed issues regarding building codes; a representative from the Kentucky Fire Fighters Association discussed funding concerns relating to training for fire fighters and EMS employees; a representative from the Department for Public Health gave a presentation explaining the jurisdiction of the department; and a representative from the Department of Housing, Buildings, and Construction discussed the different divisions and jurisdictions within the Department.

### **Subcommittee on Veterans' Issues**

During the 1998-99 Interim, the Subcommittee on Veterans' Issues of the Interim Joint Committee on Seniors, Military Affairs, and Public Safety held five meetings.

At the first and second meeting of the Subcommittee, the Commissioner of the Department of Veterans' Affairs provided information on the goals of the Commission, military license plates, the proposed National WWII Memorial, POW-MIA Flag policy, and military burial honors. At the first meeting, the Subcommittee recommended that the

Interim Joint Committee on Seniors, Military Affairs, and Public Safety write a letter to each Kentucky representative about the need for three veterans' cemeteries - one each in the eastern, western, and central regions of the state.

At the third and fourth meetings the Commissioner of Veterans' Affairs gave brief updates on the issues discussed at previous meetings and discussed actions being taken by the Department of Veterans' Affairs. Representatives from the Office of Teacher Education and Certification, Troops to Teachers, and the Education Professional Standards Board were present to discuss alternative teacher certification to candidates with a bachelor's degree, 2.5 GPA, and ten years exceptional work experience in the area for which certification is sought. The representative from the Office of Teacher Education and Certification stated that additional legislation would be needed to further streamline the certification process for veterans. A representative from the Education Professional Standards Board said that their initial proposal would be to allow alternative certification for veterans with five or more years of active service, an honorable discharge, and a BA or higher degree in the area where certification is sought. Additionally, applicants would have to pass the national test given all teachers upon graduation and participate in the state Teacher Internship Program.

At the fifth and final meeting the Committee heard from a representative from Troops to Teachers and eight veterans who are now in secondary classrooms. Several spoke of the obstacles they encountered when trying to participate in traditional certification programs at Kentucky colleges and universities. Each of the teachers stated that they had felt ready to go into the classroom directly from their military careers without first going back to school. In addition, only one felt that he had gained anything from the required teacher preparation courses. A legislative member then introduced his proposed legislation, which provides for qualified veterans to enter the secondary classroom without additional college study but concurrent with the existing one year internship program. Other legislative members gave recommendations to expand the bill to cover elementary education and to consider giving the Professional Standards Board some discretion in approving candidates who failed to meet the GPA requirement.

**REPORT OF THE 1998-99  
INTERIM JOINT COMMITTEE ON  
STATE GOVERNMENT**

**Sen. Albert Robinson, Co-Chair**

**Rep. Charles Geveden, Co-Chair**

Rep. John Adams	Sen. Glenn Freeman
Rep. Woody Allen	Sen. Ernie Harris
Rep. Hobby Anderson	Sen. David Karem
Rep. Adrian Arnold	Sen. Alice Forgy Kerr
Sen. Benny Ray Bailey	Rep. Jimmie Lee
Rep. Eddie Ballard	Rep. Gross Lindsay
Rep. Joe Barrows	Rep. Paul Marcotte
Rep. Carolyn Belcher	Rep. Mary Lou Marzian
Sen. Walter Blevins	Sen. Ed Miller
Rep. Jim Bruce	Rep. Lonnie Napier
Rep. Buddy Buckingham	Rep. Chris Ratliff
Rep. Dwight Butler	Rep. Jon David Reinhardt
Rep. Jim Callahan	Sen. Julie Rose
Rep. Stan Cave	Rep. John Will Stacy
Rep. Mike Cherry	Sen. Elizabeth Tori
Rep. Larry Clark	Rep. Jim Wayne
Rep. Perry Clark	Rep. Robin Webb
Rep. Brian Crall	Sen. David Williams
Rep. Tim Feeley	Rep. Pete Worthington

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**

**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

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

**Rep. Adrian Arnold, Chair**

Rep. Woody Allen	Sen. Ernie Harris
Rep. Hoby Anderson	Sen. Alice Forgy Kerr
Rep. Joe Barrows	Rep. Gross Lindsay
Rep. Jim Bruce	Rep. Mary Lou Marzian
Rep. Stan Cave	Sen. Ed Miller
Rep. Perry Clark	Sen. Elizabeth Tori
Sen. Glenn Freeman	

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

**SUBCOMMITTEE ON TELECONFERENCING LEGISLATIVE  
MEETINGS/SESSIONS**

**Sen. Julie Rose, Co-Chair**  
**Rep. Jimmie Lee, Co-Chair**

Rep. John Adams	Rep. Mary Lou Marzian
Rep. Buddy Buckingham	Sen. Ed Miller
Rep. Dwight Butler	Rep. Lonnie Napier
Sen. David Karem	Sen. Albert Robinson
Sen. Alice Forgy Kerr	Rep. Jim Wayne
Rep. Paul Marcotte	

**Rep. Charles Geveden, Ex-Officio**

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

**JURISDICTION:** Matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the General Assembly, its committees, officers and service agencies; redistricting; the Governor; the Lieutenant Governor; 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, appointment, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the libraries; archives and records; public corporations; Commonwealth's attorneys; circuit clerks; the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purgation of voters; 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; absent ballots; intergovernmental cooperation; relations with the federal government.

### **COMMITTEE ACTIVITY**

During the 1998-99 Interim, the Interim Joint Committee on State Government held thirteen meetings prior to November 1, 1999.

The Committee was organized into two subcommittees: the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs, and the Subcommittee on Teleconferencing Legislative Meetings/Sessions. Following is a summary of activity of the full Committee and its subcommittees.

In performing its statutory legislative oversight responsibilities, the Committee reviewed 22 administrative regulations under the review process established in KRS Chapter 13A. Twenty-one of the regulations were approved, and one was approved as amended by the Committee.

Pursuant to KRS 12.028, the Committee held hearings on two executive reorganization orders: 98-1594, creating the Office of Kentucky Veterans' Centers within the Department of Veterans' Affairs and abolishing the Kentucky Veterans' Center in the Finance and Administration Cabinet; and 98-1397, establishing the Kentucky Guard Youth Challenge Division in the Department of Military Affairs.

Major topics before the Interim Joint Committee on State Government included a Personnel Cabinet consultant's classification and compensation proposal for state executive branch employees (the HAY Report); state employee health insurance; the 2000 Census, including sampling and adjustment of U. S. Census data; security of electronic

commerce; immediate and long-range plans for state office space in Frankfort and Capitol renovation; and state government efforts to prevent Year 2000 (Y2K) computer problems.

The committee received testimony on, and approved, nine prefiled bills. The bills are:

00 RS BR 8, which would direct the Legislative Research Commission to promptly consider the General Assembly's requests for study committees and task forces and authorize the LRC to grant or deny a request or assign the study to an existing committee.

00 RS BR 214, as amended, which would allow out-of-state retirees of state retirement systems to waive retiree insurance coverage provided by the system and receive an insurance premium voucher or cash payment.

00 RS BR 398, as amended, which would require state executive branch agencies to ensure that all incoming calls during regular business hours are initially answered by an employee, but permit use of automated telephone answering systems to respond to or receive messages after the caller's initial contact with an employee.

00 RS BR 500, which would confirm Reorganization Executive Order 98-1377, to provide that the Governor's spouse is a member of the Kentucky Commission on Women.

00 RS BR 516, which would confirm Reorganization Executive Order 99-324, to create, abolish, and rename several divisions within Kentucky Retirement Systems.

00 RS BR 522, which would confirm Reorganization Executive Orders 98-1132 and 99-486, relating to the Finance and Administration Cabinet, to create a Customer Resource Center and a Division of Surplus Property and rename several existing divisions.

00 RS BR 524, which would confirm Reorganization Executive Orders 98-1020 and 98-1144, to create the Eastern Kentucky Exposition Center Corporation and define its organization, powers, and duties.

00 RS BR 527, which would confirm Reorganization Executive Order 99-42, to increase the membership of the Kentucky Appalachian Commission from 45 to 48 members by adding the President of the Council on Postsecondary Education, the President of the Kentucky Community and Technical College System, and a member representing the Community Action Agencies of Appalachian Kentucky.

00 RS BR 542, which would confirm Reorganization Executive Order 99-1198, which creates a Division of Heating, Ventilation and Air Conditioning (HVAC) within the Department of Housing, Buildings and Construction (Public Protection and Regulation Cabinet).

The Interim Joint Committee on State Government will hold a final meeting on November 16, 1999, to review the report of the LRC's Information Technology Task Force, the Governor's reorganization of information technology services in state government, and several additional bills drafted or prefiled for the 2000 Regular Session.

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

During the 1998-99 interim, the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs held eight meetings prior to November 1, 1999, and anticipates meeting in November and December.

At its first meeting, in December 1998, the Task Force discussed the turnout for and issues regarding the 1998 general election, including problems with the length of the ballot and long lines for voting. Possible solutions discussed included better training for poll workers and increasing their numbers, limiting write-in candidates on the ballot, and voter information. Additionally, voter confusion regarding the substance of proposed constitutional amendments was discussed. Also, the Task Force heard testimony regarding the constitutionality of "Good Samaritan" provisions which attempt to abrogate liability for volunteers providing services for the public.

At its second meeting, in February 1999, the Task Force discussed 00 RS BR 13, which would prohibit giving anything of value to a person in return for signing a petition to place a question on the ballot. The Task Force reviewed the legislation passed during the 1998 session and discussed possible topics that members wished to review during the interim.

At its third meeting, in March 1999, the Kentucky County Clerks' Association presented their initial legislative proposals to the Task Force. These included defining procedures for nomination of a campaign treasurer; increasing state reimbursements to counties for election costs; moving the primary election day from the first Tuesday after the fourth Monday in May to the first Tuesday after the third Monday in May in each year an election is scheduled; closing public schools for the primary as well as the general election; changing the deadline for the declaration of a write-in candidate; allowing the governing body of each political party to decline a copy of the precinct election return; and eliminating election of soil and water conservation officers. The Task Force also discussed the issue of soft money in elections, which is money raised at the national level for state party-building activities.

At its fourth meeting, in April 1999, the Task Force heard testimony regarding the implementation and effectiveness of early voting initiatives in other states and activities to reduce fraud.

At its fifth meeting, in May 1999, the Task Force reviewed provisions of the elections law relating to recounts, recanvasses, and contests. The Task Force also heard

testimony regarding the position of Constable, which is established by the Kentucky Constitution.

At its sixth meeting, in June 1999, the Task Force met in Bowling Green in conjunction with the Kentucky County Clerks' Association spring conference. The Task Force heard a proposal by the State Board of Elections with respect to withdrawn candidates. Additionally, the County Clerks Association proposed that the State Board of Elections be permitted to issue administrative regulations governing recanvass procedures. The Secretary of State provided information regarding implementation of programs to increase participation of young people in the political process.

At its seventh meeting, in August 1999, the Task Force discussed ways to increase state legislative oversight of federal block grants. Additionally, information was presented from the National Conference of State Legislatures on federal block grants, the federal budget process, and federalism issues.

At its eighth meeting, in October 1999, the Task Force considered a prefiled bill, 00 RS BR 455, which proposes a referendum to place the Ten Commandments in public schools, in conjunction with a curriculum based upon the historical impact of the Ten Commandments. The Task Force recommended approval of the prefiled bill to the Interim Joint Committee on State Government.

The Task Force anticipates considering proposed legislation at its November and December meetings.

### **Subcommittee on Teleconferencing Legislative Meetings/Sessions**

1998 SR 176 requested that the Interim Joint Committee on State Government form a subcommittee to study the feasibility and cost-effectiveness of using teleconferencing to conduct interim and standing committee meetings and session chamber activities. The Subcommittee met six times over the course of the interim. Meetings covered the history of the use of teleconferencing by the Kentucky General Assembly, a demonstration of the latest videoconferencing technology (including Internet teleconferencing), Internet broadcasting of General Assembly activities, and surveys of the Kentucky General Assembly members and the legislatures of all 50 states regarding teleconferencing.

The Subcommittee recommended that the General Assembly move forward with the use of videoconferencing, but to do so with caution. The major recommendations of the Subcommittee centered on suggesting that the LRC implement a single pilot project using videoconferencing technology over the next interim. The LRC should designate one subcommittee, preferably a subcommittee that does not meet on the same day as its parent interim joint committee, to make available up to five videoconferencing sites that can be used by members to attend meetings, in addition to the primary videoconferencing site in

Frankfort. The pilot project subcommittee should communicate regularly with the Interim Joint Committee on State Government and the LRC regarding its experience with videoconferencing and should make recommendations as to whether videoconferencing should be expanded to other meetings. The current LRC policy which permits meetings to be held via videoconferencing under certain conditions with prior approval should be continued. No recommendations were made regarding voting in chambers via videoconference.

For a more detailed description of the Subcommittee's activities and a full explanation of the Subcommittee's recommendations, the Report of the Subcommittee on Teleconferencing will be available from the LRC Publications Room.



**REPORT OF THE 1998-1999  
INTERIM JOINT COMMITTEE ON  
TRANSPORTATION**

**Sen. Ernesto Scorsone, Co-Chair**

**Rep. Hubert Collins, Co-Chair**

Sen. Walter Blevins  
Sen. Robert Jackson  
Sen. Virgil Moore  
Sen. Albert Robinson  
Sen. Tim Shaughnessy  
Rep. Rocky Adkins  
Rep. Eddie Ballard  
Rep. John Bowling  
Rep. Denver Butler  
Rep. Jodie Haydon  
Rep. Paul Marcotte  
Rep. Lonnie Napier  
Rep. Chris Ratliff  
Rep. John Will Stacy  
Rep. John Vincent  
Rep. Pete Worthington

Sen. Charlie Borders  
Sen. Dan Kelly  
Sen. Joey Pendleton  
Sen. Richard Sanders  
Sen. Ed Worley  
Rep. John Arnold  
Rep. Larry Belcher  
Rep. Ira Branham  
Rep. Barbara Colter  
Rep. Jimmie Lee  
Rep. Charles Miller  
Rep. Marie Rader  
Rep. William Scott  
Rep. Tommy Turner  
Rep. Mike Weaver

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**

**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**SUBCOMMITTEE ON VEHICLE REGULATION**

**Sen. Walter Blevins, Co-Chair**

**Rep. Charles Miller, Co-Chair**

Sen. Charlie Borders  
Sen. Albert Robinson  
Rep. Eddie Ballard  
Rep. Denver Butler  
Rep. Jimmie Lee  
Rep. Marie Rader  
Rep. John Vincent

Sen. Virgil Moore  
Rep. Rocky Adkins  
Rep. Ira Branham  
Rep. Jodie Haydon  
Rep. Lonnie Napier  
Rep. Will Scott

Sen. Ernesto Scorsone, Ex-Officio Member

Rep. Hubert Collins, Ex-Officio Member

**SUBCOMMITTEE ON HIGHWAYS AND TRAFFIC SAFETY**

**Sen. Tim Shaughnessy, Co-Chair**

**Rep. John Bowling, Co-Chair**

Sen. Joey Pendleton  
Sen. Ed Worley  
Rep. Larry Belcher  
Rep. Paul Marcotte  
Rep. John Will Stacy  
Rep. Mike Weaver

Sen. Richard Sanders  
Rep. John Arnold  
Rep. Barbara Colter  
Rep. Chris Ratliff  
Rep. Tommy Turner  
Rep. Pete Worthington

Sen. Ernesto Scorsone, Ex-Officio Member

Rep. Hubert Collins, Ex-Officio Member

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

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

### **COMMITTEE ACTIVITY**

During the 1998-99 Interim, the Interim Joint Committee on Transportation held thirteen meetings prior to November 1, 1999.

The Committee was organized into two subcommittees: Vehicle Regulation and Highways and Traffic Safety. Following is a summary of activities by the Committee and Subcommittees.

Major topics before the Interim Joint Committee on Transportation were discussions regarding the Transportation Equity Act of the 21<sup>st</sup> Century (TEA-21); implementations of 1998 legislation, HB 106 (partial repeal of the motorcycle helmet law) and HB 74 (usage tax assessments for motor vehicles); duties of the Transportation Cabinet's Motor Vehicle Enforcement Officers; and Kentucky's long-range transportation planning by officials from the Transportation Cabinet. Other major topics were the state's human service transportation delivery system; requirements for the state's Six-year Road Plan; safety concerns on US 68 in Mercer and Jessamine Counties; presentation by the Transportation Cabinet of Kentucky's Covered Bridge Program; the feasibility of titling all-terrain vehicles (ATVs); the re-design of Kentucky's title document; and a billboard study completed under 1998 HCR 119.

During the Committee's last meeting of the interim, October 5, 1999, it heard updated testimony from the Transportation Cabinet on the status of their talks with federal officials on the Transportation Equity Act of the 21<sup>st</sup> Century (TEA-21) mandates and how the Human Service Transportation Delivery System was progressing throughout the state. The Transportation Cabinet also presented several legislative issues that it planned to bring before the 2000 General Assembly.

In performing its statutory legislative oversight responsibilities, the Committee reviewed nineteen administrative regulations, under the review process established in KRS Chapter 13A. Seventeen of the regulations were approved, one was amended by the Committee, and one was not considered, in accordance with the Committee's agreement

with the Administrative Regulations Review Subcommittee, who found the regulation deficient at its earlier meeting.

Pursuant to KRS 12:028, the Committee heard testimony and approved Executive Reorganization Order 98-1596, Reorganizing the Transportation Cabinet.

In December 1998 the Committee toured the Transportation Cabinet's Communication Center, where it learned about the Cabinet's trucking equipment, salt domes, availability of salt during the winter months, and alternatives to snow removal.

### **Subcommittee on Vehicle Regulation**

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

During the 1998-99 Legislative Interim period, the subcommittee met four times prior to November 1, 1999. The Subcommittee discussed such issues as the collection of social security numbers for motor vehicle title information; truck weight and highway weight classifications; and the possibility of allowing 102" wide vehicles broader access to Kentucky highways.

### **Subcommittee on Highways and Traffic Safety**

The Subcommittee on Highways and Traffic Safety was formed to discuss issues including, but not limited to, traffic safety on Kentucky's highways and waterways, and to make reports to the full Transportation Committee on its findings.

During the 1998-99 Legislative Interim period, the Subcommittee met seven times before November 1, 1999. The Subcommittee discussed such items as the safety concerns and need for improvement on the Daniel Boone Parkway; placement and safety of traffic control devices; the Transportation Cabinet's pavement management activities; the possibility of raising or lowering speed limits on Kentucky's interstate highways; advertising signs and highway right-of-ways; requirements of handicapped parking placards; and the effect of the motorcycle helmet law on fatalities.

During the biennium the Subcommittee was also given monthly construction reports depicting detailed Six-Year Road Plan projects that were advertised for letting, coupled with bid proposals issued and received, and the name of the contractor who was awarded the bid for a particular project during that month.

**REPORT OF THE 1998-99  
ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

**Rep. 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: David Nicholas, Donna Little, Stephen Lynn, Edna Lowery, Ellen Benzing, Angela Phillips, Donna Valencia, and Susan Wunderlich

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

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

### **SUBCOMMITTEE ACTIVITY**

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 their provisions are enacted, upon sine die adjournment of the next succeeding Regular Session of the General Assembly.

During the period May 1998 through October 1999, the Administrative Regulation Review Subcommittee reviewed approximately 750 administrative regulations and determined that eight did not comply with statutory authority.

In August 1999 the Legislative Research Commission published the 1999 Administrative Regulations Service of Kentucky, which contains administrative regulations in effect as of August 15, 1999.

The Subcommittee is considering recommendations for revising review forms used by LRC staff in reviewing administrative regulations; for developing computer programs to standardize forms relating to amendments and other material presented by administrative bodies at Subcommittee meetings, and for assisting administrative bodies in drafting administrative regulations.

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



**REPORT OF THE 1998-99  
CAPITAL PLANNING ADVISORY BOARD**

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

Ms. Susan S. Clary  
Mr. James C. Codell, III  
Rep. Brian Crall  
Ms. Bonnie Howell  
Mr. Lou Karibo  
Ms. Cicely Jaracz Lambert

Mr. Sam Newcomb  
Ms. Norma Northern  
Sen. Albert Robinson  
Mr. Nick Schwendeman  
Mr. Laurel True  
Judge Edwin White

Sen. Ed Worley

LRC STAFF: Pat Ingram, Mary Lynn Collins, Lola Williamson Lyle, and Phillip Smith.

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **CAPITAL PLANNING ADVISORY BOARD**

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

### **BOARD ACTIVITY**

During the 1998-99 Interim, the Capital Planning Advisory Board held eleven meetings. At its April 1998 meeting, the Board heard a presentation by representatives of the Finance and Administration Cabinet on its long-range plan for housing state agencies in Frankfort, as developed pursuant to KRS 42.027. At this meeting, the Board also reviewed actions of the 1998 General Assembly relative to recommendations contained in the Board's 1996-2002 Statewide Capital Improvements Plan and discussed that maintenance of state facilities would be the major issue addressed prior to the start of the next planning process in April 1999.

At its July 1998 meeting, the Board began its review of maintenance of state facilities by hearing from representatives of the Finance and Administration Cabinet regarding that Cabinet's statewide role relative to facilities, as well as its responsibility for administering various specific buildings in Frankfort, Lexington, London, and Madisonville.

In September 1998, the Board met at Murray State University (MSU) and heard from representatives of the Council on Postsecondary Education (CPE) about maintenance of facilities at the state's postsecondary education institutions. The day before the meeting, some members toured the recent renovations at Lake Barkley State Resort Park and, following the meeting, toured the Murray campus.

Guidelines for state agencies and postsecondary education institutions to use in submitting their 1998-2004 capital plans were approved at the December 1998 CPAB meeting. The guidelines stipulated that the plans were to include a status report of projects with current biennium (1998-2000) authorization and planning information on capital construction projects, equipment and information technology acquisitions, and new or expanded leases of real property. In December, the Board also continued its discussion of maintenance of state facilities with presentations by representatives of the Cabinet for Families and Children and the Cabinet for Health Services.

Guidelines for the 1998-2004 capital plans were distributed to state agencies and postsecondary education institutions in January 1999. In February 1999, CPAB staff, assisted by staff of the Governor's Office for Policy and Management (GOPM), conducted three two-hour sessions to review the capital planning forms and instructions (including the related computer software) with agency and postsecondary education planning personnel.

Representative Perry Clark was elected chairman of the CPAB in February 1999. This meeting included an update on the long-range plan for Frankfort from representatives of the Finance and Administration Cabinet and continued the review of state facilities maintenance issues with presentations by representatives of the Workforce Development Cabinet and the Department of Education.

Agency and institutional capital planning submissions were due on April 15, 1999. Board staff reviewed the submissions for compliance with the guidelines, then analyzed the planned projects and developed summaries highlighting each agency's priorities and major categories of projects. Proposed capital construction, equipment, and information technology projects for 2000-2002 and 2002-04 totaled approximately \$5.7 billion.

The focus of the Board's May 1999 meeting, held at the Jefferson County Judicial Center in Louisville, was court facilities planning and funding issues. Presentations on this topic were made by the Chief Justice of the Kentucky Supreme Court and officials of the Administrative Office of the Courts. A tour of the Judicial Center followed the meeting.

The Board held a two-day meeting in July 1999 to review the capital plan submissions and to hear the testimony of state agency representatives regarding their planning priorities. At its July meeting, the Board also received and reviewed recommendations which it had requested from the Office of the Chief Information Officer regarding information technology projects.

At an August 1999 meeting, the Board began the development of recommendations to be included in its 1998-2004 Statewide Capital Improvements Plan.

A full-day meeting in September 1999 included a report from the Task Force on Historic Properties as required by Senate Concurrent Resolution 95; a review of the postsecondary education capital plans and a report from the CPE; a presentation from the Chief Justice and other Judicial Branch representatives regarding their proposals for improving the court facilities planning and funding process (as requested by the Board in July); and further discussion of recommendations to be included in the 1998-2004 Plan. Discussion of recommendations for the 1998-2004 Plan continued at a meeting on October 12.

On October 26, 1999, the Board gave final approval to the 1998-2004 Statewide Capital Improvements Plan for submission to the heads of the three branches of government. The Board's recommendations address two categories of capital projects:

those proposed to be financed from state funds (i.e., general fund, bond funds, investment income, and capital construction surplus), and those proposed to be financed from other than state funds.

Relative to projects proposed to be financed from state funds in the 2000-02 capital budget, the Board recommends:

- That **maintenance of existing state facilities** be considered as the highest priority;
- That **various specific capital construction and information technology projects** be considered as the next highest priorities (after maintenance); and
- That **programs which provide assistance to non-state entities**, through grants or loans, also be recognized as high priorities.

Specific projects or programs were identified in each category.

Relative to capital projects proposed to be financed from other than state funds, the Board recommends that the 2000-02 budget authorize all projects proposed by state agencies and universities to be financed 100% from Federal Funds, Restricted Funds, Other Funds, or Road Funds, with the following exceptions:

- Projects which will require the expenditure of significant additional state funds for their operation and maintenance;
- Projects which 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.

In addition to the capital projects recommendations, various policy recommendations were adopted by the Board in conjunction with the 1998-2004 capital planning process. As listed below, they can be summarized into four categories: Court Facilities Planning, Funding and Oversight; Use and Maintenance of State-Owned Facilities, Information Technology; and Other.

## **Court Facilities Planning, Funding, and Oversight**

The Board endorses proposals of the Judicial Branch which would improve the process of planning, funding, and oversight of court facilities projects (as outlined by Judicial Branch representatives to the Board on September 15, 1999) and urges that the 2000 General Assembly enact legislation, that the Judicial Branch approve new rules, and that the Administrative Office of the Courts (AOC) develop procedures, as needed, to implement them.

The Board particularly urges:

- 1) That the detailed analysis (i.e., comprehensive assessment) of existing court space be completed prior to the next six-year capital planning process, and requests that the Judicial Branch provide periodic updates on that analysis to the Board in 2000 and 2001; and
- 2) That AOC establish stringent guidelines that detail and mandate the procedures and standards to be used in designing and constructing new court facilities. These guidelines should recognize that different approaches can be used to address differing needs of rural and urban areas while still providing appropriate court space for each. For example, small caseloads in some counties probably do not warrant having a full array of separate facilities for both the district and circuit court.

## **Use and Maintenance of State-Owned Facilities**

**Provide for an Adequate and On-Going Source of Revenue to Address Maintenance Needs.** The Board recommends that the Governor and General Assembly formalize a method by which state General Funds would be systematically appropriated in the biennial state budget to address the growing maintenance needs of state-owned facilities. This funding should supplement, not supplant, the capital construction investment income funding currently dedicated to this use by long-standing executive and legislative policy.

The Board recognizes that it may be necessary to take a phased approach in implementing this recommendation, but urges that, at a minimum, the Governor and the 2000 General Assembly identify and commit to a maintenance funding goal and an approach to reaching that goal.

**Enhance the Role and Authority of the Department for Facilities Management.** The Board recommends that the Executive Branch work to identify a more pro-active role and increased authority for the Finance and Administration Cabinet/Department for Facilities Management with regard to administration of the state's overall physical plant and that periodic reports be provided to the Board on the status of this effort. The following items should be specifically addressed:

- Determination of which state-owned buildings should be managed and administered by the Department (rather than individual agencies), and how the transfer of that responsibility to the Department can be implemented;
- Development of categories and definitions for use by state agencies in evaluating and reporting the condition of their facilities, and monitoring, through the use of selective field audits, agency compliance with the use of these categories;
- Development of a database for use by state agencies to record and track all maintenance projects completed for each state-owned facility; and
- Establishment of standard and consistent policies to be used by agencies managing state-owned facilities.

The Board urges that this effort commence immediately so that those changes which can be made without statutory changes or additional funding can be implemented as soon as possible, and so that any necessary statutory and/or funding changes which may be required can be considered for recommendation by the Board for the 2002 General Assembly and the 2002-04 budget process.

The Board recognizes that efforts are already underway relative to the transfer of office buildings currently administered by the Cabinet for Families and Children to the Department for Facilities Management and urges that this process continue and that any additional funding needed by the Department in conjunction with this transfer be provided in the 2000-02 budget.

**Report the Use of Facility-Generated Revenues for Capital Needs.** The Board recommends that entities which have authority to use facility-generated and other revenues for managing and operating a facility and to create a reserve for repair, replacement, debt service and capital improvements be required to report annually to the Capital Planning Advisory Board on the amount of those revenues which are used to address capital needs, including deposits to the reserve for such purposes.

The Board particularly encourages these entities to establish such reserves in order to reduce the demand for state funds to address capital renewal and replacement needs, and encourages those involved in the state budget process to take into account the availability of facility-generated funds when considering capital project requests for the facilities.

**Agency Review of Programs and Related Facilities Needs.** The Board endorses the Cabinet for Health Services' planned review of agency programs and facilities, in conjunction with the Department for Facilities Management, and directs that the Cabinet provide periodic reports to the Board on the progress of this effort.

The Board also directs that other state agencies managing and operating facilities review their programmatic and service delivery needs and the relationship of facilities to those needs and report on the results of those reviews in accordance with a schedule to be established by the Board for 2000 and 2001. The Board further urges that, to the extent possible, agencies seek outside expertise in reviewing the condition and use of their existing facilities (e.g., from the state's Department for Facilities Management or elsewhere), and in evaluating the use of technology in the agency's programs and service delivery (e.g., from the Governor's Office for Technology).

**Consider Transferring Senior Citizens and Child Day Care Centers from the State.** The Board recommends that the Governor and General Assembly give serious consideration and review to proposals by the Cabinet for Health Services (CHS) and the Cabinet for Families and Children (CFC) to transfer the senior citizens and child day care centers, constructed with funding from the Human Services Construction Pool, to the local entities operating those facilities.

**Revision of Information Technology Capital System Definition and Threshold.** The Board recommends that the 2000 General Assembly amend KRS 45.750 to raise the threshold for a "system" to be considered a capital project from \$400,000 to \$1.0 million and to define "information technology system" to mean "any initial purchase or major upgrade of hardware, software, implementation and development services, or digital data products, or any combination of these items, as specified in an administrative regulation to be promulgated by the Governor's Office for Technology, for a specific business purpose," and;

The Board also recommends that the 2000 General Assembly amend KRS 7A.010 to include information technology (IT) systems, defined as "any initial purchase or major upgrade of hardware, software, implementation and development services, or digital data products, or any combination of these items, as specified in the administrative regulation promulgated pursuant to KRS 45.750," and to establish a cost threshold of \$1.0 million for a system to be considered a capital project for capital planning purposes.

**Establishment of a Forum for Information Technology in the General Assembly.** The Board endorses the Chief Information Officer's recommendation for the establishment of a forum for information technology in the General Assembly.

**Information Technology Funding and Life-Cycle Approach.** The Board believes that proactive and innovative funding approaches must be explored to support the ongoing support costs of major information technology projects, and so, as requested by the Office of the Chief Information Officer, endorses the use of public-private partnerships, user charges, transaction fees and other innovative options for funding.

**Long-Range Plan for Housing State Agencies in Frankfort.** The Board endorses the long-range plan for housing state agencies in Frankfort, as presented by the Department for Facilities Management in 1998, pursuant to KRS 42.027, and recommends

that the Governor and the General Assembly provide funding in the 2000-02 and subsequent state budgets to finance the renovation and new construction projects called for in that plan.

**Long-range Plan for Housing State Agencies in Metropolitan Areas.** The Board recommends that the Department for Facilities Management proceed with further development of its long-range plans for housing state agencies in the metropolitan areas (e.g., Louisville, Lexington, Northern Kentucky), focusing on recommendations which would place “priority on centralization of services and coordination of service delivery systems,” pursuant to the mandate of KRS 42.027.

The Board further recommends that the state implement any necessary legislative or policy changes which would permit agencies to consolidate multi-county operations into single locations, which would benefit the state economically and also meet the needs of the agencies’ constituents.

**Alternatives for Addressing the Need for Additional State Prison Construction.** The Board recommends that the Executive, Legislative, and Judicial Branches continue to identify and utilize alternatives to incarceration and juvenile detention that are consistent with public safety, in order to reduce the need for the construction of additional prison and juvenile detention facilities; and

The Board further recommends that the three branches jointly undertake a study, including the use of outside consultants, to thoroughly examine reasons for the state’s actual and projected prison population increases and recommend ways to reduce the projected growth rate.

The Board notes that the state will need to fund approximately \$1.2 billion in prison construction by the year 2014, in order to accommodate a projected deficit of over 16,400 prison beds the annual cost of operating those beds (based on FY 1998/99 figures) would be approximately \$254 million.

**Statutory Funding of the Budget Reserve Trust Fund.** The Board recommends that the Budget Reserve Trust Fund be funded in accordance with the provisions of KRS 48.705 and that the Governor and General Assembly not suspend these provisions in recommending and enacting future state budgets.

The complete 1998-2004 Statewide Capital Improvements Plan, as approved by the Board, will be transmitted to the heads of the three branches of government by the statutory due date of November 1.



**REPORT OF THE 1998-99  
CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

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

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

Sen. Bob Jackson  
Rep. Jim Wayne

LRC STAFF: Mary Lynn Collins, Pat Ingram, Jack Affeldt, Lou Pierce, Lola Williamson Lyle, and Shawn Bowen

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

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

### **COMMITTEE ACTIVITY**

As a statutory committee, the Capital Projects and Bond Oversight Committee meets monthly, even when the General Assembly is in session. This report covers Committee activity between November 1, 1998, and October 31, 1999. During this period, the Committee met twelve times. Ten of the Committee's meetings were held in Frankfort and one of the Frankfort meetings included a tour of the Kentucky History Center, still under construction at the time. In May, the Committee met in Covington and toured the newly constructed Northern Kentucky Convention Center as well as the Kenton County Judicial Center, which was also under construction at the time. In August, the Committee met at the University of Kentucky's William T. Young Library and toured various capital projects on the University's main campus as well as the Coldstream Research Campus.

The Committee spent parts of several meetings considering a report by the Attorney General's Office on their investigation of the procurement of a design/build team for construction of the Kenton County Courthouse and Parking Garage. As a result of the investigation, representatives of the Attorney General's Office recommended the following statutory changes to the Committee:

- Require large construction projects by local governments to comply with the Kentucky Model Procurement Code. (That code was incorporated into state statutes in 1980, but is currently optional and little used by local governments.)
- Require local public officials to document any contact with potential or actual bidders of construction contracts.
- Include a definition of fraud in the procurement code and impose felony penalties.
- Expand the "misuse of confidential information statutes" to include persons other than public officials. (Criminal statutes, as currently written, only address the misuse of confidential information by public officials.)

During the Committee's review, members identified another area of concern—training needs of local public officials regarding procurement of major construction. Proposed legislation addressing the Attorney General's recommendations as well as the training needs issue is being drafted and will be reviewed by the Committee in the coming months.

As part of its review of the \$20 million appropriation made by the 1998 General Assembly for the Louisville/Jefferson County Regional Airport Authority, the Committee passed a resolution at its April, 1999, meeting urging the Authority to agree to and pay for a management audit as recommended by the state Auditor of Public Accounts.

The Committee also spent considerable time this past year on various issues relating to postsecondary education, including a review of plans for five regional centers that were authorized by the 1998 General Assembly as collaborative efforts between the Kentucky Community and Technical College System (KCTCS) and regional universities. Additionally, the Committee received status reports on the Commonwealth Virtual University, the Commonwealth Virtual Library, and three postsecondary education bond pools authorized by the 1998 General Assembly: the Agency Bond Pool, the Deferred Maintenance and Government Mandates Pool, and the Research Equipment and Lab Replacement or Acquisition Pool.

In addition, the Committee reviewed the University of Louisville's plan to move the 1998 authorized Research Building for the Belknap Campus to the University's Health Sciences Center Campus in downtown Louisville. The University also requested authorization to increase the scope by \$9 million, using a mixture of private funds and revenues generated from the University Medical Center. The Committee specifically requested the Council on Postsecondary Education (CPE) to review the proposed change and approved the actions contingent upon CPE approval. (CPE subsequently approved the change in location and the scope increase.)

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

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

The Committee approved agency requests to increase the scope of 29 previously authorized capital projects. Requests were made primarily to permit the awarding of contracts when bids exceeded budget. In several cases, requests were made to increase the project because of the availability of private or federal funds. Pursuant to KRS 45.760(13), any increase in excess of 15% of a project's authorized scope must be funded by federal or private funds. The approved scope increases for the 29 projects totaled \$29,394,579. Sources to cover these cost overruns included private, federal, and agency funds, as well as \$915,200 from the Capital Construction and Equipment Purchase Contingency Account. The Contingency Account funds were allocated to the following budgeted projects: \$675,000 – **Kentucky Center for the Arts**

**Enhancement Project; \$30,000 – John James Audubon Golf Course Erosion Project; \$101,800 - Jefferson Davis Visitors Center; and \$108,400 – the Kentucky Horse Park Primary Line Renovation Project.** The Committee voted not to approve a request to increase the **Public Service Commission Office Building Project** by \$393,000. However, the Finance Secretary authorized the increase without the Committee’s approval pursuant to KRS 45.800.

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

The Committee approved seven unbudgeted capital projects with a total scope of \$9,084,571. The unbudgeted projects approved by the Committee were funded through a mixture of federal grants, state funds (mostly restricted agency funds) and private donations as follows:

**Department of Military Affairs** – Conversion of cold storage warehouse to offices and workspace (\$640,000: \$490,000 federal funds and \$150,000 restricted funds).

**University of Kentucky** – Renovation of German House (\$765,100: \$400,000 private funds and \$365,100 restricted funds).

**University of Kentucky** – Football Office Complex (\$2,500,000: \$1,600,000 private funds and \$900,000 Athletic Association Funds).

**University of Kentucky** – Renovation of Wildcat Lodge (\$1,000,000: \$500,000 private funds and \$500,000 Athletic Association Funds).

**Murray State University** – Alumni and Development Center Renovation project (\$750,000: \$479,000 private funds and \$271,000 restricted funds.)

**Department of Juvenile Justice** – Multi-purpose buildings for the Morehead and Green River Youth Development Centers (\$1,000,000: \$600,000 federal funds and \$400,000 state funds).

**Department of Corrections** – Northpoint Training Center – Exterior stabilization of old hospital building (\$2,429,471: \$2,186,524 federal funds and \$242,947 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% of the costs are from private or federal sources, and if the project is presented to the Committee for review.

It should be noted that unlike past years, the Capital Construction and Equipment Purchase Contingency Account was not used to match federal funds for any unbudgeted projects. However, the Committee did approve the Secretary of the Finance and Administration Cabinet's recommended allocation of \$180,000 from the Contingency Account to fund a study of facility alternatives (including renovation, replacement, or disposal of facilities) at Eastern, Central, and Western State Psychiatric Hospitals.

### **Review of Allocations from the Emergency Fund**

The Committee reviewed allocations made by the Finance and Administration Cabinet Secretary from the Emergency Repair, Maintenance, and Replacement Account for a total of \$2,234,300. The allocations were as follows:

**Jefferson Davis Monument Repair** - \$175,000;  
**Somerset Community College Hangar Door Replacement** - \$120,000;  
**Western KY University Replacement of Steam and Condensate Lines** - \$300,000;  
**Kentucky Horse Park Sewer Treatment Plant Inflow Infiltration** - \$100,000;  
**Replacement of the Capitol Tunnel Handicap Lifts** - \$592,000;  
**Hazard Community College Roof Replacement** - \$125,000;  
**Eastern State Hospital Wendell Building Roof Replacement** - \$325,000;  
**Emergency Boiler Replacement for Kentucky State Reformatory** - \$497,300.

### **Review of Allocations from the Statewide Deferred Maintenance Fund**

The Committee continued to monitor allocations made from the Statewide Deferred Maintenance Account. During the reporting period, allocations totaling \$1,592,600 were made to three agencies: the Department for Facilities Management (56%), the Cabinet for Health Services (24%), and the Department of Education (20%). According to KRS 45.782, state agencies that do not have separate agency-specific maintenance funds or that have inadequate maintenance funds are to be given priority access to the fund.

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

The Committee reviewed and approved five grants, representing \$6,084,000, from the **Economic Development Bond (EDB) pool**. This bond-funded program makes grants (forgivable loans) to local governments to leverage against private investment for economic development in the Commonwealth. In return for the assistance, companies are required to make commitments regarding job creation and/or job maintenance. The five projects funded and the amount of EDB assistance awarded were: Jefferson County, **Ford Motor Company Kentucky Truck Plant** (\$1,700,000); Carroll County, **North American Stainless** (\$225,000); Kenton County Airport Board, **Ashland Corporation** (\$1,334,000); City of Barbourville, **Jackson, MSC, Inc.** (\$200,000); and Lexington-Fayette Urban County Government/Lexington Industrial Foundation, **Lexmark International, Inc.** (\$2,625,000) In addition to job

commitments, Lexmark agreed to make a minimum investment at the project site of \$70,000,000 by December 31, 2002.

Also reviewed was a report of EDB job creation and job maintenance requirements for projects approved by the Committee from July 1990 to the end of year 1997. Of the 86 projects approved during that period, 72 (84%) were 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)** - Five loans, including one planning and design loan, totaling \$8,821,340 for the cities of Danville, Morehead, Hopkinsville, and Wurtland and Lewis County Sanitation District #1.
2. **Fund B (Infrastructure Revolving Loan Fund, state-funded)** – Two loans, totaling \$1,395,600, for the City of Prestonsburg and the Gallatin County Water District/ Kentucky Speedway.
3. **Fund B (Infrastructure Grant, state-funded)** – Two grants, totaling \$5,500,000, for Meade County Fiscal Court and the City of Hindman. (These grants were specifically authorized by the 1998 General Assembly.)
4. **Fund C (Government Agencies Program, user-supported)** - Three loans, totaling \$2,191,572, for Meade County Water District, Dexter Almo Heights District (Calloway County), and Jessamine South Elkhorn Water District.
5. **Fund E (Solid Waste Revolving Loan Program)** - Eight loans, totaling \$2,510,690, for Hart County Solid Waste Management District, Fiscal Courts of Boyd, Johnson, and Robertson Counties, and Cities of London, Corbin, Pikeville, and Ravenna.
6. **Previously approved loans** – Increases in previously approved loans, totaling \$4,726,204, were made for the Cities of Hardinsburg, Nicholasville, and Louisa and the Greenup County Environmental Commission.

In February of 1999, the Committee approved an unusual request to make a grant of \$753,000 from the KIA Fund B Infrastructure Grant Program to another state agency—the **Water Resource Development Commission**. The grant was to be used to complete Phase II of the Strategic Water Development Plan. The Committee

attached several conditions to the grant including a requirement to involve local planning commissions in the plan development. The Committee received an update on plan developments in September of 1999.

### **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 Infrastructure Authority** - Five bond issues, totaling \$37,090,117 to fund approved public infrastructure projects and to refinance existing debt.
2. **Kentucky Economic Development Finance Authority** - Thirteen bond issues totaling \$619,932,096. 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** - Three bond issues, totaling \$22,165,000, 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 \$75,000,000 to provide new money for student loans.
5. **Kentucky Housing Corporation** – Four new issues, totaling \$351,735,000, to fund the purchase of low-income multi-family and single-family housing mortgages and to refund existing financing.
6. **101 school district bond issues** - Totaling \$428,888,000, with state debt service participation through the School Facilities Construction Commission.
7. **42 local school district bond issues** - Totaling \$263,123,000, with 100% locally-funded debt service. Included in the total was a \$14 million Jefferson County Tax and Revenue Anticipation Note (TRAN) issue and a combined Kentucky Interlocal School Transportation Association/Kentucky School Board Association TRAN for 140 school districts. The TRAN issues are used to manage the cash flow of the districts.
8. **Kentucky Asset/Liability Commission** – Three project notes (short-term financing) totaling \$675,195,000 for General Fund budgeted projects, General Fund Surplus Expenditure Plan projects, Road Fund

projects, and agency-funded capital projects. General Fund TRAN issues in the amount of \$302,517,000 were also considered.

9. **State Property and Buildings Commission** – Three issues, totaling \$182,445,000, to provide long-term financing for surplus expenditure plan projects, and life safety and deferred maintenance projects at the Commonwealth’s postsecondary education institutions and to refund existing bonds to gain a savings in debt service expense.

### **Review of State Leases**

The Committee reviewed 41 state agency lease modifications. Six of these lease modifications increased annual rental payments by a total of \$856,344 to cover the cost of state agency requested improvements; another 30 increased the amount of space leased; and five decreased the amount of leased space.

The Committee approved the award of ten renewal leases with individual annual costs over \$100,000. The Director of the Division of Real Properties told the Committee that these leases were advertised, and in all but one case, the current landlords were awarded the contracts. In most of these renewals, the existing lessor was the only one who submitted a final bid. The Division negotiated the renewals for terms between two and seven years at rate increases that ranged from 4 to 30%. Together, the renewals represented over \$190,000 in increased annual rental costs. In addition, the Committee approved five new leases with individual annual costs in excess of \$100,000, and reviewed five emergency leases.

The Committee approved a \$289,000 University of Louisville lease agreement for laboratory space in Glenholden, Pennsylvania, for work on bone marrow transplants that has gained international attention. The University had successfully recruited the research team, and the lease enabled their work to continue uninterrupted until space became available in the University’s new medical research facility then under construction. Research staff recruitment was funded through the Research Challenge Trust Fund established during the first Special Session of 1997 (House Bill 1).

The Committee reviewed and approved a request by the Finance and Administration Cabinet to purchase the former post office located in Frankfort, Kentucky. The total cost of the facility, including the initial payment of \$200,000 and the annual rental payments of \$31,944 for ten years, will be \$519,440. Also, the Committee approved a lease-purchase agreement for the Morehead State University Foundation for property on US 60 East in Rowan County and one new lease, three lease renewals, and one lease modification for the University of Kentucky.

## **Review of Court Projects**

The Committee continued to monitor construction of court projects authorized by the General Assembly. Local governments are required to provide space for district and circuit courts and are reimbursed for the space through facility use allowance payments appropriated to the Administrative Office of the Courts (AOC) by the General Assembly.

The 1998-2000 Judicial Budget Bill funded, for the first time, the Court Facility Use Allowance Contingency Fund for cost overruns in court facility projects. As required by the Judicial Budget Bill, AOC reported allocation of funds from the Contingency Fund for court projects in Butler, Edmonson, Knox, Woodford, Lyon, and Warren Counties.

After reviewing reports on the cost overrun and Contingency Account allocation for the Warren County Judicial Center, and the need for additional funds for projects in Boone, Christian, Harlan, and Harrison Counties, members voiced concerns about state oversight of the design and construction of court facilities. In September, at the request of the Committee, the Chief Justice of the Kentucky Supreme Court and officials from the Administrative Office of the Courts presented a number of recommendations for statutory and policy changes to assure more planning is done on projects prior to General Assembly authorization and greater oversight of projects once they are authorized.

**REPORT OF THE 1998-99  
EDUCATION ASSESSMENT AND ACCOUNTABILITY  
REVIEW SUBCOMMITTEE**

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

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

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

LRC STAFF: Sandra Deaton and Donna Jarrell.

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LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 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.

### **SUBCOMMITTEE ACTIVITY**

The subcommittee, created by the 1998 General Assembly (HB 53), met thirteen times prior to October 31, 1999.

At the first meeting, the presiding chair said that assessment and accountability is the heart of the state's education system and that the work of the subcommittee is critical to the future success of public education in Kentucky. He said the legislature is ultimately responsible for the final results and, therefore, will be the drivers of the work done and will guide the process on a daily or weekly basis if necessary. The subcommittee then joined the Kentucky Board of Education, the School Curriculum, Assessment, and Accountability Council, the Office of Education Accountability, and a member of the National Technical Advisory Panel in a meeting to begin planning the changes that were necessary to implement HB 53 and to create the new assessment and accountability system, the Commonwealth Accountability Testing System (CATS).

The new CATS test includes: a nationally normed test or test items; open-response and multiple choice items; on-demand writing assessment; writing portfolios; performance events for performing arts students; and a technically sound longitudinal assessment. Assessments measure grade appropriate core content, basic skills, and higher-order thinking. Time spent in testing is minimized. Valid and reliable school scores are required, as well as a biennial validation study plan with findings reported to the Legislative Research Commission. HB 53 requires that assessment results be reported no later than September 15 of the following year. The state board is required to develop a school report card and to establish the new accountability system after receiving advice from the technical panel, the council, and the Office of Education Accountability. The legislation also requires rewards be distributed to schools for purposes determined by the school council. It revises sanctions to include: a scholastic audit; assistance from highly skilled certified staff; evaluation of school personnel; and student transfer to successful schools. After seeking advice, the state board is required to establish a school accountability formula and improvement goals for 1998-99 and 1999-00 based on common test components with 1996-97 and 1997-98 serving as the baseline. HB 53 requires closeout of the Kentucky Instructional Results Information System (KIRIS) and distribution of reward funds to schools improving during the biennium.

Throughout the interim the subcommittee heard progress reports from members of the Kentucky Board of Education, Department of Education, School Curriculum, Assessment and Accountability Council, and the National Technical Advisory Panel as

well as other interested parties on the development of the Request for Proposal for the CATS test; the revision of the writing portfolio to reduce the time needed to complete the portfolio as part of the testing program; the development of the interim and long-term accountability models; the policy on inclusion of special populations in the assessment and accountability program; the core content; and the school report card.

The subcommittee reviewed seven administrative regulations and determined that they all met statutory authority.

**REPORT OF THE 1998-99  
GOVERNMENT CONTRACT REVIEW COMMITTEE**

**Rep. Brent Yonts, Chair**

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

Sen. Marshall Long  
Sen. Richard L. "Dick" Roeding  
Rep. Kathy W. Stein

LRC STAFF: Michael L. Meeks, Kim M. Eisner, Joseph Hood, and Nancy P. Smith

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 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.

Memorandum of agreement review exemptions include: agreements between the Transportation Cabinet and political subdivisions of the Commonwealth for road and road-related projects; agreements between the Auditor of Public Accounts and other government agencies for auditing services; agreements between a state agency as required by federal or state law; 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; agreements involving child support collections and enforcement; agreements with public utilities, providers of certain direct Medicaid health care to individuals, and transit authorities; nonfinancial agreements; any obligation or payment for reimbursement of the cost of corrective action made pursuant to the Petroleum Storage Tank Environmental Assurance Fund; exchanges of confidential personal information between agencies; agreements between state agencies and rural concentrated employment programs; or any other agreement that the committee deems inappropriate for consideration.

Personal service contract review exemptions include: 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; agreements with public utilities, foster care parents, providers of certain direct Medicaid health care to individuals, individuals performing homemaker services, and transit authorities; agreements between state universities or colleges and employers of students in the Commonwealth work study program; agreements between state agencies and rural concentrated employment programs; agreements between the State Fair Board and judges, officials, or entertainers contracted for events promoted by the State Fair Board; or 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 1998-99 Fiscal Year beginning July 1, 1998, and ending June 30, 1999, the committee reviewed 1,535 personal service contracts and 760 amendments to personal service contracts. One

personal service contract was disapproved by the committee, and one personal service contract was reconsidered by the committee. The committee also reviewed a total of 743 personal service contracts for amounts under \$10,000.00 (due to a change in the statutes, this amount increased from \$1,000.00, effective July 15, 1998), which are submitted to the committee for informational purposes only.

Since the start of the 1999-2000 Fiscal Year, beginning July 1, 1999, through October 12, 1999, the committee has reviewed 559 personal service contracts and 124 amendments to personal service contracts. One personal service contract has been disapproved by the committee. The committee has also reviewed a total of 309 personal service contracts for amounts under \$10,000.00, which are submitted to the committee for informational purposes only.

During the 1998-99 Fiscal Year beginning July 1, 1998, and ending June 30, 1999, the committee reviewed 840 memoranda of agreement and 560 memoranda of agreement amendments. No memorandum of agreement or memorandum of agreement amendment was disapproved by the committee. The committee also reviewed a total of 1,405 memoranda of agreement for amounts under \$50,000.00, which are submitted to the committee for informational purposes only.

Since the start of the 1999-2000 Fiscal Year, beginning July 1, 1999, through October 12, 1999, the committee has reviewed 870 memoranda of agreement and 63 memoranda of agreement amendments. No memorandum of agreement or memorandum of agreement amendment has been disapproved by the committee. The committee also reviewed a total of 372 memoranda of agreement for amounts under \$50,000.00, which are submitted to the committee for informational purposes only.

**REPORT OF THE 1998-1999  
MEDICAID MANAGED CARE  
OVERSIGHT ADVISORY COMMITTEE**

**Sen. Gerald Neal, Co-Chair  
Rep. Eleanor Jordan, Co-Chair**

Sen. Walter Blevins  
Sen. Vernie McGaha  
Sen. Julie Rose  
Sen. Ernesto Scorsone  
Rep. Jim Bruce  
Rep. Jack Coleman  
Rep. Steve Nunn  
Rep. Dottie Sims

LRC Staff: Barbara Baker, Robert Jenkins, Perry Nutt, Murray Wood, Cindy Smith,  
and Lisa Whittaker.

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AND THE  
2000 REGULAR SESSION OF THE  
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## **MEDICAID MANAGED CARE OVERSIGHT ADVISORY COMMITTEE**

**JURISDICTION:** 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**

During the 1998-1999 Interim, the Medicaid Managed Care Oversight Advisory Committee held five meetings prior to November 1, 1999. This committee is required to meet at least four times annually. A summary of activity of the committee follows:

During the first meeting on October 15, 1998, the commissioner of the Department for Medicaid Services provided an overview of the objectives and funding for Medicaid managed care partnerships and the role of the Department for Medicaid Services in providing oversight. The executive director of Passport Health Plan, executive vice-president and chief executive officer of Keystone Mercy Health Plan, and the chairman of the Region 3 Partnership Council provided a briefing on the governance, financing, and implementation issues within the Region 3 partnership. This briefing was followed by a briefing on Region 5 from the chief executive officer of CHA HMO Incorporated and the director of Health Care Management, Kentucky Health Select.

The second meeting was held on April 7, 1999. A former secretary of the Cabinet for Health Services provided a historical perspective of the mission of Medicaid managed care in Kentucky. Medicaid managed care was implemented to curtail the increasing costs and to expand services; and it was anticipated that any savings realized from managed care would be placed in an Indigent Care Trust Fund to be used to expand services. The vice-president of the Alpha Center testified about lessons learned from Medicaid managed care in other states, stressing the importance of implementing Medicaid managed care slowly.

Administrative costs of partnerships were discussed. Concern was voiced that administrative costs in partnerships were significantly higher (8% to 9%) than administrative costs in traditional Medicaid (2%).

The Commissioner and the Deputy Commissioner of Medicaid Services, and the executive director of the Office of Program Support testified regarding the implementation of a partnership in Region 8; additional comments were received from representatives from groups interested in providing Medicaid managed care in Region 8. The committee encouraged all of these groups to work together to form a single partnership in Region 8.

The committee also had a briefing on the governance, financing, and implementation issues in Regions 3 and 5. Representatives from the office of the Auditor of Public Accounts summarized a review of the Region 8 partnership selection process, finding nothing inappropriate in the bid and evaluation procedures.

At the April 7, 1999, meeting, the committee heard about concerns from dental and health department providers. The committee received testimony from the Kentucky Dental Health Coalition, dentists, Commissioner of Health, Lexington-Fayette County Health Department, and the Director of Health, Jefferson County Health Department.

The third meeting of the committee was held on May 28, 1999. The Commissioner of the Department for Medicaid Services testified about administrative costs within partnerships and the reason why costs are different than in the traditional Medicaid program.

Access to health care was discussed, and members heard from a dentist from Region 3 who was having difficulty receiving payment for claims. Policies regarding payment could lead to access problems because dentists were withdrawing from the program.

The committee also heard concerns and recommendations from pharmacy, durable medical equipment, and hospital providers. Representatives from the Kentucky Pharmacists Association and the Kentucky Hospital Association proposed that pharmacy be carved out of Medicaid managed care. The chair of the board and the chair of the legislative committee of the Kentucky Hospital Association presented a position paper on Medicaid Managed Care and Partnerships that proposed the sharing of risk among providers and the state, funding of development costs for partnerships, defining core functions of health departments within partnerships, assuring adequate capitation rates, retaining the ability to have flexibility to collaborate with other regions on administrative services, and streamlining the Medicaid eligibility process. Additionally, the Kentucky Hospital Association recommended that the state be required to contract first with a provider-owned partnership that included all of the required provider representation and provide geographic coverage of services before making any award to a sole entity that could not meet these criteria.

The fourth meeting was held on June 25, 1999. The Commissioner of the Department for Medicaid Services and executives from the dental administrative service for Medicaid managed care in Region 3 testified regarding the issues raised in the May meeting related to payment of claims policies.

The Department for Medicaid Services provided an overview of the plans for evaluating the effectiveness of Medicaid managed care. Professors from the University of Kentucky described their research design, methodology, and the status of data collection regarding their contract with the department to complete a satisfaction survey of Medicaid recipients and providers. Survey results would be available to members by the end of July, 1999. Representatives from Medicaid managed care partnerships provided a summary of their plans to evaluate costs, savings, access, and quality of care.

The fifth meeting of the Medicaid Managed Care Oversight Advisory Committee was held on August 27, 1999. The executive director of the Region 5 Managed Care

Organization summarized the finding of their Provider Adequacy Survey, noting that the types of complaints being received were related to reimbursement rates. The two biggest reasons for cost overruns were pharmacy and Supplemental Social Security Income recipients.

The concept of the "pool of doctors" as a risk sharing group was discussed. Nine counties were identified as needing additional primary care providers. Representatives from the Clark County and the Montgomery County Health Departments testified regarding provider concerns. About 25% of patients were being assigned to primary care providers out of their county of residence. Children were not receiving well-child care nor acute care, except at the local emergency room. In Montgomery County, there is only one pediatrician treating children. The director of the Montgomery County Health Department reported that primary care providers were requiring any new Medicaid patient to undergo an assessment prior to being accepted by a physician. The executive director of Region 5 Managed Care Organization committed to follow-up on this practice.

Transportation has been removed from managed care partnerships, and the new transportation provider only provides transportation to specialists located in an adjacent county. This change presents a major problem since most specialists are several counties away.

The commissioner of the Department for Medicaid Services reported that the consumer and provider satisfaction survey would be available by September 15, 1999. The commissioner also briefed the committee on the progress toward implementation of partnerships in additional regions.

The next meeting is scheduled for November 10, 1999. The agenda includes issues related to access, provider concerns related to home health, and a report of the progress toward implementation of managed care for behavioral health.



**REPORT OF THE 1998-1999  
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

**Rep. H. “Gippy” Graham, Presiding Co-Chair  
Sen. Marshall Long, Co-Chair**

Sen. Charlie Borders  
Sen. Paul Herron, Jr.  
Sen. Vernie McGaha  
Sen. Richie Sanders  
Sen. Joey Pendleton  
Sen. Dan Malano Seum  
Sen. Ed Worley

Rep. Adrian Arnold  
Rep. Charlie Hoffman  
Rep. Susan Johns  
Rep. Ruth Ann Palumbo  
Rep. Charles L. Siler  
Rep. Dottie Sims  
Rep. Tommy Turner

LRC STAFF: Ginny Wilson, Lowell Atchley, Tom Hewlett, Alice Hobson, Joseph Hood,  
Doug Huddleston, and Susan Spoonamore

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## **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 1998-99 Interim, the Legislative Program Review and Investigations Committee has held 16 meetings through October 1999.

During this period, the Committee undertook program evaluations of State Agency Contract Administration; Kentucky Children's Health Insurance Program; The Health Insurance Market for Employees and Retirees of Kentucky State Government (Ky. Kare); Personnel Pilot Projects; Kentucky Housing Corporation's Homelessness Assistance Program; Local Government Multijurisdictional Bodies; Kentucky Infrastructure Authority; Division of Occupations and Professions; and Vehicle Registration Enforcement.

In addition, the Committee undertook an informational review of the Commonwealth Virtual University and an investigation of a Cabinet for Health Services' contract with Sapient Corporation.

Several-follow up reports were given, previous studies and a study completed early in the interim, including the Department of Parks Operations and Marina leasing, University Capital Construction, the Division of Licensing and Regulation, Medicaid Services, and the Parole Board.

Two program evaluations, the Kentucky Early Intervention System (First Steps program) and the Non-Emergency Human Service Transportation Program are in process. Also, a preliminary review of the Underground Petroleum Storage Tanks program has been authorized.

The Committee began the interim with a follow-up review of the cost benefit study of leasing versus state operation of state park marinas. Parks department personnel explained a report entitled “An Analysis of the Lease at Lake Barkley State Resort Park Marina” and gave information concerning the seven marinas that are leased. The report recommended that the state consider state operation of marinas unless a private bid would lead to a higher return.

Early in the interim, the Committee examined state agency contract administration. This study compared contract management practices within Kentucky state agencies with generally recommended practices from other state, federal, and non-profit sectors. A follow-up to that study related to improvements made in the Department for Facilities Management’s university capital construction process. More responsibility for small projects and maintenance has been given to the universities. Staffing increases and computerization of the office have significantly reduced the time for project planning and improved communication during construction.

Both the Office of Attorney General and the Office of Inspector General in the Cabinet for Health Services share welfare and medicaid fraud and abuse responsibilities. In a previous study, the Committee identified significant overlaps, time delays, and low success rates. Changes in the processes and duties have reduced time delays and reported rates of prosecution and fines.

As an outgrowth of the fraud and abuse follow-up, the Committee began an investigation of a Cabinet for Health Services contract. The contract was entered into in Spring 1998 for the purpose of detection and collection of medicaid fraud, abuse, and mispayment. The Cabinet and the vendor agreed to make significant changes to the contract to address serious concerns by the Committee and Attorney General’s Office. These changes can result in a 30% increase in funds returned to the Cabinet, improve contract oversight, reduce conflicts with the OAG and U.S. Attorney’s Offices, and ensure protection of confidential information. During the course of the hearings, Cabinet and company officials were required to testify under oath, and a subpoena for documents was issued. This occurred because of concerns related to the manner in which the contract was bid and the questions as to who was the actual service provider.

The Committee reviewed enforcement of motor vehicle registration. A staff report indicated a potential revenue loss of \$17.4 to \$30.4 million. Recently, the Revenue Cabinet and State Police have instituted programs to improve identification. The role of the courts and Transportation Cabinet’s Vehicle Enforcement Division were also reviewed. The report recommended increased efforts by all agencies and the exploration of incentives for more local law enforcement involvement.

The Committee approved a preliminary study of the Commonwealth Virtual University, which indicated that there was no reason to recommend further study of the issue.

The Committee reviewed a follow-up status report regarding the 1997 Committee recommendations relating to the Division of Licensing and Regulations. An agency representative stated that the Cabinet, in 1997, agreed with all recommendations and enumerated multiple areas of compliance with those recommendations.

During the Committee's study of the Kentucky Children's Health Insurance Program (KCHIP) preparation for implementation, the Cabinet announced that it had withdrawn the Requests for Proposals and had chosen to cover children up to 150 percent of the poverty level under the Medicaid program as a Medicaid expansion. The Cabinet stated that it believes this will not compromise the Cabinet's ability at a later date to consider an alternative program.

In a follow-up to a study of the operations of the Parole Board, the Justice Cabinet responded that it was in the process of making an in-house study of the Parole Board using the Committee's recommendations as a basis. In October, one of these recommendations, the hiring of an Executive Director, was announced. The agency is scheduled to appear before the Committee for an update.

The Committee reviewed the operations of the Division of Occupations and Professions to see if the resources of the Division were sufficient to meet current and expected responsibilities. The Committee recommended that the General Assembly, in its budget process, consider increasing the appropriation to the Division to reflect the cost of added demands on the Division, and further, that the General Assembly consider enacting specific dates for the annual or biennial license renewals for the various occupations and professions.

With the termination of Kentucky Kare, the Committee addressed the issue of whether it would be feasible for the Commonwealth to establish another health self-insurance plan for state employees and retirees. It was noted that it could be feasible for the Commonwealth to establish a self-insured plan, but it should be understood that a long-term commitment to developing a solution is needed. The Committee approved the report and detailed recommendations in "The Health Insurance Market for Employees and Retirees of Kentucky State Government."

The Committee also looked at multijurisdictional special districts. The report focused on statutorily authorized special districts that crossed county lines and addressed the reporting requirements, oversight, and accountability established for special districts. Upon roll call vote, motion to approve the Multijurisdictional Special Districts study and recommendations did not pass.

The Committee reviewed the Kentucky Housing Corporation's (KHC) allocation of federal homeless grant money. The study covered how the Kentucky Housing Corporation allocates federal grant moneys to homeless shelters and providers in the state; how KHC chooses who receives U.S. Department of Housing and Urban Development (HUD) emergency shelter grant (ESG) funds, and how homeless shelters in smaller cities

and communities in the state spend the funds they receive. The staff of the Kentucky Housing Corporation reviewed the five recommendations presented and concluded that the recommendations were appropriate. The report, recommendations, and Kentucky Housing Corporation's response to the recommendations were approved.

At its October 1999 meeting, the Committee reviewed the operations of the Kentucky Infrastructure Authority (KIA). The study focused upon the entire KIA program, its purpose and process, funding and administration, and efficiency and effectiveness. The report determined that, overall, KIA appears to be administering its programs effectively and efficiently. The study and recommendations were approved.

Also in October, the Committee reviewed the study of personnel pilot projects. In 1994 the General Assembly authorized the creation of personnel pilot projects as a way to experiment on state personnel practices on a small scale. The pilot projects were eventually approved and implemented. All pilot projects were discontinued by July 15, 1998. The report concluded that the design of most of the pilot projects did not include control for external facts, and consequently the precise effect of the individual pilots cannot be determined. It was recommended that future pilot projects be well-controlled to demonstrate the effect of changes made. The report and recommendations were approved by the Committee.

**REPORT OF THE 1998-99  
TASK FORCE ON ADULT EDUCATION**

**Governor Paul E. Patton, Chair  
Sen. Walter Blevins, Vice-Chair  
Rep. Brent Yonts, Vice-Chair**

Rep. Scott Alexander

Sen. Lindy Casebier

Rep. Barbara Colter

Ms. Debra Fischer

Rep. Gippy Graham

Sen. David Karem

Dr. Cheryl D. King

Ms. Rebecca Sue Knisely

Rep. Charles Miller

Sen. Tim Shaughnessy

Rep. Charles Siler

Sen. Robert Stivers

Dr. Jonell Tobin

Mr. John F. Underwood

Sen. David Williams

LRC STAFF: Sandra Deaton, Ethel Alston, Charlie Bush, Audrey Carr, and Lora Hawkins.

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **TASK FORCE ON ADULT EDUCATION**

**JURISDICTION:** To develop recommendations and an implementation plan for raising the literacy level and educational attainment of Kentucky's adults who have not graduated from high school or who have poor literacy skills.

### **TASK FORCE ACTIVITY**

The Task Force met ten times to address the directive of 1998 Senate Resolution 164 to develop recommendations and an implementation plan for raising the literacy level and educational attainment of Kentucky's adults who have not graduated from high school or who have poor literacy skills. The work began with a full-day meeting of the Task Force, and over 250 representatives of education, business, students, and community leaders from across the state participated in small group discussions relating to national trends; educational, social, economic, and cultural issues and needs in Kentucky; types of clients and needs; barriers to program participation; and recommendations.

A consultant to the committee highlighted Kentucky's demographic characteristics, and Kentucky's economic and educational achievements, compared to those of other southern states, as reported in the "State of the South: 1998." He particularly emphasized the impact of increased numbers of single-parent families, decreasing educational participation by males, high dropout rates, low numbers of bachelor's degrees, the aging population in Kentucky (fewer younger workers), and the changing workplace needs. While Kentucky has made progress in the elementary and secondary area, in postsecondary education, and in adult education, the state still lags behind with too many undereducated adults.

The consultant said that the South needs to organize to meet the needs of the undereducated adults. He said that nothing should be more central to the mission of education than responding to the needs of those who need it the most to function in the economy and who need it to make the economy function. He said it might be a high school graduate who cannot write English, an aging worker who is rusty in skills or who never had skills, or the welfare mother who cannot negotiate in the economy. He said that without education a person has no influence in society and no assets to sell in the labor market. He said that educated people refuse to be poor.

The former Commissioner for the Department for Adult Education and Literacy gave an overview of adult education in Kentucky. She said that 22% of Americans perform at the very lowest literacy levels (which would be about a fifth grade reading skill level), as compared to about 14% of Kentuckians. She said that the bad news is that those 14% of Kentuckians functioning at the lowest level of literacy represent 340,000 people in our state who have minimal skills needed to compete in the workplace as well as function in the home and in their communities. She said that another 650,000 adults in Kentucky function at the next lowest level of literacy. This means that they can read and write at minimal levels, but they may have difficulty in applying what they read and write to other

situations. She said that this means 44% of Kentuckians struggle with minimal literacy skills, and 37% of the Kentuckians age 25 and older do not have a high school diploma.

Kentucky receives both federal and state funds for adult education and literacy. While total funds are at an all time high of \$21 million annually, this funding is serving about 40,000 Kentuckians per year, or only about 5% of the target population. Nationally, programs are serving about 9% of the people who need those services.

The Task Force heard from various presenters and stakeholders and visited programs across the state to learn more about the field of adult education. The Task Force divided into two teams and visited local adult education programs. Visits were made to programs located in Rockcastle, Whitley, Laurel, Bell, Hardin, Ohio, Daviess, and Hancock counties. The Task Force as a whole also visited the adult education program at the Kentucky Correctional Institution for Women at Pewee Valley and various programs in Jefferson County.

The Task Force contracted with the National Center for Higher Education Management Systems for consulting services. The consultant provided a draft report and recommendations that he presented to the Task Force for their review. They spent several meetings reviewing and amending the report and adopted it on August 18, 1999. The major findings and recommendations included in that report are as follows:

### **The Findings**

- 40% of Kentucky's working age population (1 million) is at the two lowest literacy levels (I and II) - not being able to read at all or at very limited to moderate levels.
- Two-thirds of Kentucky's counties have 40% or more of their working age population at levels I and II literacy; in 10 counties 50% or more of the working age population is at levels I and II literacy.
- Continued high dropout rates from secondary school continue to feed the problem.
- Low literacy levels of parents relate directly to the education of children and youth. Children of parents with low literacy levels are five times more likely to drop out of school.
- Illiteracy is a disease that infects every dimension of Kentucky life.

### **Principles**

- Recognize that adult literacy is not an isolated problem but a fundamental barrier to every major challenge facing Kentucky.

- Create a 20-year strategy to raise the education attainment of the Commonwealth's population, shifting from implementing a state or federal law to leading a statewide strategy.
- Narrow the disparities among counties.
- Improve adult literacy of *all* Kentuckians.
- Shift the emphasis from providers to the needs of clients and from programs and pilots to systemic impact on adult literacy in all counties.
- Recognize multiple dimensions of the issue and the need for multiple but coordinated strategies to meet the needs of different target populations.
- Emphasize continuity and development of basic capacity of providers and require performance and accountability in serving clients.
- Recognize the different roles and strengths of players (e.g., public schools, postsecondary institutions, employers) and avoid assigning roles that are inconsistent with strengths and traditions.
- Emphasize coordination among entities with differentiated roles.
- Focus on the county as the unit for improvement and change and use regional and statewide frameworks to support county-level change.
- Build on existing structures and statutory frameworks as much as possible and avoid creating new bureaucratic structure when possible.
- Use incentives rather than mandates to change the behavior of individuals, governments, institutions, and employers.
- Avoid "One-Size-Fits-All" strategies recognizing diversity among Kentucky's counties in needs, providers, and in "what works."

### **Recommendations**

- Assign responsibility for statewide policy leadership for lifelong learning and adult education to Council on Postsecondary Education to create and oversee:
  - A statewide 20-year strategy;
  - Public advocacy;
  - Coordination at the local, regional, and state levels;
  - A county-by-county network for coordinated service delivery to adults;

- New policies on professional preparation, development, and certification of adult educators;
  - New financing alternatives; and
  - New approaches to assessment and accountability.
- Retain the Department for Adult Education and Literacy in the Cabinet for Workforce Development to:
  - Implement federal and state policy as defined in current statute;
  - Serve as the designated state agency for Title II of the Workforce Investment Act;
  - Enter into five-year agreements with the comprehensive coordinating entities;
  - Create and implement a funding formula that targets counties with greatest need, increases the emphasis on performance, and can be phased in over four years; and
  - Provide technical assistance to the comprehensive coordinating entity to development family literacy services.
- Expand the adult education and literacy initiative fund to support county and regional strategies for lifelong learning and adult education, to provide a system of statewide initiatives for excellence, and to provide research and development funds.
- Include funding components to provide:
  - County and regional strategies focused on a comprehensive coordinated approach;
  - Statewide initiatives that stimulate the development of models that may be replicated elsewhere in the state; and
  - Research and demonstration that result in the development of:
    - Standards for the professional preparation of adult educators;
    - A statewide competency-based certification for transferable skills in the workplace;
    - Incentives for adults, employers, and providers to establish and accomplish learning contracts; and
    - Other initiatives as determined by the council.
- Provide employer and workplace incentives to include:
  - Performance-based incentives for adult learners in the workplace; and
  - Tax credit and other incentives for private sector employees.
- Mandate that public employers require employees to have or obtain a GED and that employers provide access to adult education for employees.

- Provide incentives for completing secondary school through:
  - An improved program for at-risk youth within secondary education;
  - Incentives for out-of-school youth to obtain a GED or alternative secondary school certificate, linked to the Kentucky Education Excellence Scholarship program; and
  - A statewide requirement to be enrolled in school or a GED program to obtain a driver's license.



**REPORT OF THE 1998-99  
TASK FORCE ON COMPLEMENTARY AND ALTERNATIVE MEDICINE**

**Rep. Tom Burch, Chair**

Rep. Scott Alexander  
Steve Arnett  
Rep. John Arnold  
Robert Barnett, Jr.  
Kim Basham  
Sen. Tom Buford  
Rep. Perry Clark  
Dr. Phillip DeSimone  
Rep. Bob DeWeese  
Dr. Frank Hideg  
Dr. Gary James

Dr. Gail Mornhinweg  
Todd Leatherman  
Dr. Benjamin Rigor  
Sen. Dan Seum  
Mary Norton Shands  
Tom Smith  
Dr. John Strosnider  
Dr. Donald J. Swikert  
Tina Thompson  
Dr. John R. White  
Dr. George Wolverton

LRC STAFF: Vida Murray, Anne Armstrong, Laura Hendrix, Mary Yaeger, and  
Sue Hensley

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **TASK FORCE ON COMPLEMENTARY AND ALTERNATIVE MEDICINE**

**JURISDICTION:** to study the benefits and effects of complementary and alternative medicine, nonconventional medical treatment, acupuncture, and naturopathy and report its findings and recommendations to the 2000 Regular Session of the General Assembly.

### **TASK FORCE ACTIVITY**

The Task Force on Complementary and Alternative Medicine has met twelve times during the 1998-99 interim, and will meet one more time prior to the 2000 Session.

At its initial meeting, Task Force members listened to a presentation describing complementary and alternative medicine, reviewed HB 160, the legislation establishing the Task Force, and reviewed a proposed work plan. An oncologist from the University of Kentucky College of Medicine gave an overview of complementary and alternative medical practices and a representative of the Kentucky Board of Medical Licensure set out the Board's position on the use of complementary and alternative practices. The overview set out the prevalence and use of complementary and alternative medical practices in the United States and described those using alternative medicine as predominantly: East or West Coast residents; college graduates between 25 to 49 years of age with an average income of \$35,000 to \$45,000; and white. In addition, the oncologist noted that complementary or alternative medicine is generally not used for life-threatening illnesses but for those conditions that are not normally treated effectively by physicians, such as back and joint pains. Some complementary and alternative therapies include: acupuncture; aromatherapy; homeopathy; hypnotherapy; reflexology; massage; naturopathy; self-help groups; and vitamin therapy.

A representative of the Medical Licensure Board reported that the Board is formulating a policy on alternative practices and has categorized them as: those that have been validated; those that are plausible, but have not been proven; and those that have been shown to be invalid. The representative commented that there is tension between the alternative practices that fall in the latter two categories and the Board's primary role of safeguarding the public. He added that physicians using alternative practices are expected to follow the medical model of diagnosing patients, following-up with appropriate treatment and documentation, and obtaining informed consent. In subsequent testimony before the Task Force, representatives of the Medical Licensure Board indicated that the Board had not specifically assigned each alternative practice to one of the three categories because a practice's acceptability or lack thereof will depend on the circumstances surrounding its use, and research affirming or negating the practice is evolving.

The following alternative medicine practices were discussed at the second through the fifth meetings: acupuncture; hypnosis; aromatherapy; herbal medicine; therapeutic touch; AMMA therapy; and naturopathy. Generally, practitioners in each practice described the practice, its efficacy, its safety, its suitability for integration with

conventional medical practices, and public demand for the therapy. With regard to the above-mentioned areas, presenters addressed the education, experience, and credentials of the practitioners, how the profession regulated its own members, how other states regulate the practice, and the availability of practitioners. Other areas addressed concerning the practice or therapy were the perceived credibility of the therapy, the cost effectiveness of the therapy, and the availability and access of the therapy, including the availability of third party payment. A summary of those portions of the presenters' testimony addressing a modality's efficacy and safety are set out in the next several paragraphs.

In discussing the efficacy of acupuncture a nationally-certified acupuncturist reported that in 1998, the National Institutes of Health had issued a Consensus Statement finding that acupuncture is effective for adult post-operative and chemotherapy nausea and vomiting and post-operative dental pain. The statement also found the use of acupuncture promising for addiction, stroke, rehabilitation, headache, menstrual cramps, tennis elbow, fibromyalgia, myofascial pain, osteoarthritis, low back pain, carpal tunnel syndrome, and asthma. The acupuncturist pointed out that a review of the literature revealed that few people have sustained injuries where acupuncture had been performed by licensed practitioners.

The second practice, hypnotherapy, was discussed by a Kentucky hypnotist who reported that hypnotherapy has been successful in treating bedwetting, school anxiety, learning problems, and sport performance in children and adults, and has been used by some hospitals in anesthetizing patients. Two practitioners in Lexington reported that yoga therapy has been applied to people with bronchial asthma, arthritis, anxiety, blindness, hypertension, depression, low back pain, and other forms of chronic pain, cancer, cardiovascular disease, multiple sclerosis, and insomnia. The yoga instructors also noted that some insurance companies are paying for treatment that includes yoga as one of its components.

A professor from the University of Louisville School of Nursing discussed aromatherapy and herbal medicine. The presenter noted that the efficacy of an essential oil depends on its purity, and that an oil's quality is affected by the conditions and times in which the oil is grown and harvested. She cautioned that oils are unregulated drugs with many of the same components as other medications, and there is a lack of research on aromatherapy. A large number of oils are contraindicated for pregnant women.

In discussing herbal medicine, the presenter noted that a recent study by Eisenberg et. al. shows that the use of herbs in the United States has increased more than any other alternative form of medicine. Out-of-pocket expenditure for herbal medicine in 1997 was \$5.1 billion. Herbs are more commonly used for allergies, insomnia, digestive problems, and lung problems. The presenter noted that herbs, when properly prescribed, can be as effective as modern day medications with some diseases, and are many times used as preventive measures. A major concern set out in the Eisenberg study is that approximately 15 million people take herbs and prescription drugs concurrently.

An advanced registered nurse practitioner reported that therapeutic touch has been used in a variety of clinical settings with a variety of patients and is designed to promote relaxation, decrease pain and anxiety, and increase hemoglobin and wound and bone healing.

The next practice discussed was AMMA therapy, a specialized form of massage therapy that combines deep tissue manipulation with the application of pressure, friction, and touch to specific points and the channels on which they are found. The academic dean of the School of Wholistic Nursing at the New York College for Wholistic Health Education and Research testified that the following conditions have been successfully treated with AMMA Therapy: traumas from sprains; strains; fractures; broken bones; arthritis; hypertension; diabetes; gastrointestinal disease; circulatory problems; early stage cancers; autoimmune disease such as scleroderma; neuromuscular disease such as myasthenia gravis; chronic fatigue syndrome; asthma; and bronchitis. In addition, she noted that AMMA therapy has proven exceptionally beneficial for infants and children in treating acute and chronic ear infection, upper respiratory infections, asthma, bronchitis, juvenile arthritis, diabetes, teething, headaches, coughs, and colds.

The efficacy of naturopathy was discussed by a licensed naturopath representing the American Association of Naturopathic Physicians (AANP) and a naturopath representing the American Naturopathic Association (ANA). The former speaker noted that over the last ten years, 3500 randomized clinical studies of natural medicine have been published, and that scientific studies and observations have upheld the validity of diet, herbal medicine, manipulation, massage, acupuncture, biofeedback, and homeopathy. The latter speaker reported that studies and clinical trials around the world have shown that natural therapies if used in the naturopathic paradigm are virtually risk-free. He noted that many of the so-called "clinical breakthroughs " that are publicized in the areas of vitamins, diet, lifestyle, and minerals---areas that have long been recommended by naturopathy. He added that the effectiveness of natural therapies equals or surpasses the traditional allopathic mode, and that superior results have occurred where natural methods were used with allopathic practices.

At the sixth meeting, members of the public testified in favor of and against the regulation of alternative medicine. Many of those testifying gave personal accounts of their success with alternative medicine modalities.

Representatives of various professional and health associations and licensing boards spoke at the seventh, eighth, ninth, and tenth meetings of the Task Force on the efficacy and risks of the alternative medicine practices studied. Moreover, some of the licensing boards' representatives addressed whether the boards permit those they regulate to practice alternative medicine, and some addressed the desirability of licensing new professionals. The first speakers representing the Physical Therapy Board reported that acupuncture and naturopathy should be licensed because of the risks they pose. The Board finds other practices such as aromatherapy, yoga, and therapeutic touch relatively benign, and prefers that alternative practices be provided by conventional medical

practitioners who are able to draw on their biomedical backgrounds. In concluding, the presenters noted that alternative medicine should be supported by clinical rather than anecdotal evidence and integrated with conventional medicine. The representative indicated that the Board allows one therapist to practice acupuncture because the therapist has extensive training in acupuncture and uses it as an adjunct to his physical therapy practice.

The next speakers represented the Physical Therapy Association. In light of strong access and public demand, the association recommends that the alternative medicine practices studied be standardized. In addition, licensing should only occur if the practice is sufficiently threatening to the public and if the services and practices are not already provided by or under the supervision of an existing licensed professional.

One of the Task Force members spoke on behalf of the State Board of Certification for Dietitians and Nutritionists. The Dietitians and Nutritionist Board finds the safety and effectiveness of hypnotherapy, touch therapy, AMMA therapy, and herbal therapy to be questionable. The Board's position is that those practicing acupuncture and naturopathy should be regulated. The member added that acupuncture has been successful in some limited uses, but that much of the research in this area has not withstood scientific scrutiny.

A biochemistry researcher at the University of Louisville spoke on behalf of the Kentucky Council for Reliable Health information. He urged the Task Force members to be leery of anecdotal evidence, claims espousing the danger of conventional medicine and its failure to be proven by scientific evidence, and claims touting the efficacy of alternative medicine because of its long-term use. In short, the Council recognizes the benefits of yoga, massage, and herbal remedies for certain uses, and recommends that no new practitioners be licensed and that insurance coverage for alternative medicine not be mandated until there is convincing evidence supporting the particular practice. The Council's representative cautioned against permitting naturopaths to act as primary physicians and the licensing of acupuncturists and those using therapeutic touch, and said he finds no scientific bases for homeopathy. Moreover, he stated that there are no medical uses for aromatherapy and that herbal remedies should be used cautiously until their active ingredients are isolated.

The General Counsel of the Kentucky Board of Nursing reported that the Nursing Board has permitted nurses to perform healing touch, therapeutic touch, and massage therapy if the nurses performing them have additional educational qualifications to show that they can perform these practices with reasonable skill and safety.

The President of the Kentucky Board of Medical Licensure noted that the Board was not in the position to assess the efficacy of questioned medical procedures, and recommended that the Task Force look to nationally recognized research entities such as the National Institutes of Health and the Food and Drug Administration for such information. He pointed out that the testimony the Task Force has heard about the Board

targeting practitioners who use alternative procedures is incorrect. He indicated that the Board is not interested in preventing physicians from using any particular form of treatment unless potential exists for harm to the patient or the consumer is not adequately informed about the benefits and risks of the treatment.

The Secretary-Treasurer of the Kentucky Medical Association (KMA) told the Task Force that the KMA is concerned about the delay that occurs when successful treatment of a serious condition is compromised, although the Association understands that patients may seek alternative treatment for conditions that modern medicine is still unable to treat. However, such treatment should be given with the patient's informed consent.

A Task Force member who is the vice-president of the Board of Chiropractic Examiners testified that the board is open to the use of alternative medicine and uses some practices such as massage, nutrition, and supplements, and in some states acupuncture. The Board notes that more research into some of the complementary and alternative methods is necessary, and at this time does not feel there is sufficient information on public safety, quality standards, need and clinical effectiveness to recommend licensing a new profession. The Board cautions that licensing new professions may cause unnecessary duplication and overlapping of services in already overburdened health care system. However, the Board recommends that all alternative practitioners be registered.

A Task Force member representing the Kentucky Nurses Association (KNA) testified that the Association supports integrating wholistic therapies and mainstream medicine, standardizing education and competency for those practicing hypnotherapy, and licensing those practicing naturopathy. The Association supports further research to determine the efficacy and safety of herbal medicine and naturopathy, the integration of wholistic therapies such as massage, AMMA therapy, healing touch, Reiki, and aromatherapy with conventional medicine, and national certification through the American Holistic Nurses Association. The KNA believes it is unnecessary and cost-prohibitive to require a separate license to practice each of these therapies since nurses are already licensed.

At the tenth and eleventh meeting, representatives of each of the Commonwealth's medical schools testified on how the medical schools were integrating alternative medicine into their curricula and research. In addition, members discussed possible recommendations, and a proposed acupuncture licensing bill draft. The bill draft would: require acupuncturists to be licensed; permit experienced acupuncturists to be licensed through grandfathering or by endorsement; require practitioners to fully inform patients about the procedure and its risks; and establish a procedure by which a practitioner was disciplined. One of the Task Force members who is a representative of the Kentucky Board of Medical Licensure gave the Board's position concerning the proposed bill draft. The Medical Licensure Board is opposed to including references to Oriental medicine and Oriental medical practices in the definition of "the practice of acupuncture;" prefers acupuncturists to be certified rather than licensed; prefers acupuncturists to obtain

undergraduate degrees and complete a three-year course of study in acupuncture at an approved school; prefers that licensing through grandfathering and by endorsement be eliminated; prefers that physicians and other medical personnel practicing acupuncture complete at least 100 clock hours of instruction in acupuncture prior to practicing; and prefers that patients be referred to acupuncturists by their physicians.

In a letter to the Task Force, the Kentucky Nurses Association responded to the Medical Licensure Board's recommendations. The Association posited that Oriental medicine is an integral part of the practice of acupuncture and should be included within the practice of acupuncture; licensing is preferable to certification; medical professionals should complete at least 200 clock hours of training in acupuncture before practicing; licensing through grandfathering should be permitted for those with extensive experience or training through apprenticeships; communications between the patients' physicians and their acupuncturists should be required rather than a doctor's referral; and that an independent licensing board should be established.

In addition to the actions set out above, the Task Force received testimony from:

- Representatives of the Commonwealth's medical schools on what each medical school was doing in the area of complementary and alternative medicine education and research;
- A representative of the Kentucky Medical Association on a survey it had conducted of primary care physicians and internists on their training and use of alternative medicine practices. The survey showed that two-thirds of the doctors responding had provided, referred, or recommended patients for alternative treatment, and one-third of the physicians responding reported that they or a family member had used alternative medicine; and
- Physicians in favor of and opposed to the use of chelation therapy for atherosclerosis.

In the upcoming meeting, the Task Force will vote on the proposed acupuncture bill draft and adopt final recommendations.

**REPORT OF THE 1998-99  
SPECIAL TASK FORCE ON CONTAINER DEPOSIT**

**Rep. Greg Stumbo, Chair**

Sen. Charlie Borders  
Sen. Paul Herron  
Rep. Rocky Adkins  
Rep. Woody Allen  
Thompson Armstrong  
Neil Barry  
Bruce Blue  
John Burke  
Brandon Campbell  
Robin Cooper  
John Cecil

Tom FitzGerald  
Rebeckah T. Freeman  
Dennis George  
Ray Gillespie  
John Hinkle  
Ben Hall  
Ray Hillebrand  
Charles Peters  
Barry Rosier  
Sandy Watkins  
Grey Zeitz

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **SPECIAL TASK FORCE ON CONTAINER DEPOSIT**

**JURISDICTION:** Review of House Bill 371, introduced by the 1998 General Assembly and known as the "container deposit bill," and any amendments or committee substitutes to the bill. The goal of the review shall be to determine in what ways the approach to solid waste management presented by the bill may improve the present structure of solid waste management in Kentucky and achieve that improvement with the least disruption. The Task Force shall conclude its review by issuing a report to the Legislative Research Commission in December 1999. The report may contain recommendations for legislative proposals to strengthen the state's waste management programs based upon its review of House Bill 371.

### **TASK FORCE ACTIVITY**

The Special Task Force on Container Deposit met thirteen times through November 1999.

At its first meeting, the Task Force received an overview of House Bill 371 (HB 371). Members discussed provisions of HB 371 and identified aspects of the bill that need further review.

The Task Force also received from staff of the National Conference of State Legislatures an overview of recycling and litter reduction activities in other states. Members learned about various approaches to solid waste management, including bottle bill programs, curbside recycling, and pay-as-you-throw programs. Members also discussed the volatility of the market for recycled material.

At its second meeting, Task Force members received a summary of Kentucky county solid waste planning information from the Division of Waste Management, Natural Resources and Environmental Protection Cabinet. Members discussed results of a survey identifying areas in the state that attract litter and the most common types of litter. Members learned about county recycling activities, capabilities of current recycling facilities, and market opportunities for recycled material.

The Task Force also heard from representatives of a grocery corporation and the Soap and Detergent Association regarding the distribution process of grocery stores. Members discussed Kentucky's unique geographic position (bordering eight states) and the problem of fraudulent redemption.

At its third meeting, the Task Force received a presentation about the California Beverage Container Recycling and Litter Abatement Act of 1986. Members examined the similarities and differences between HB 371 and the California bottle bill program. Members also learned how California prevents fraudulent redemption.

At its fourth meeting, the Task Force heard from representatives of the bottling industry. Members heard about the costs of a bottle bill to small bottlers and to consumers. Members also heard testimony about an increased risk of fraudulent redemption in Kentucky compared to other bottle bill states due to the greater number of containers included in HB 371.

At its fifth meeting, the Task Force finished hearing testimony from representatives of the bottling industry. The Task Force also received a presentation on regional recycling facilities. Members discussed a proposal to charge a 50¢ per ton tipping fee on garbage disposed at landfills as a source of revenue for county recycling programs.

At its sixth meeting, the Task Force heard a presentation from a panel of representatives with the West Virginia Conservation, Education, and Litter Control Program. Members learned about West Virginia's Make It Shine, Youth Conservation, Adopt a Highway, and Operation Wildflower Programs. The Task Force viewed video clips of public service announcements in Texas, Utah, and Philadelphia. Members discussed the need to change Kentucky's ethics law to allow private and public partnerships for public service announcements and Adopt a Highway campaigns. Finally, the Task Force heard from a container manufacturer on the negative impacts an advance disposal fee would have on its fast food packaging and beverage container cups.

At its seventh meeting, the Task Force received the results of a litter survey conducted by the Beverage Industry Recycling Program that showed a 61% reduction in litter from 1980 to 1998. Task Force members learned about the Kentucky Recycling and Marketing Assistance Authority and how it helps find markets for recyclables. The Task Force also heard a presentation on the Kentucky Pollution Prevention Center's activities in reducing industrial waste.

At that same meeting, the Task Force heard a presentation on the future of plastics. Members learned that the use of plastics is growing because of performance and consumer preference. The Task Force also heard presentations by two school groups and a report on activities of the Casey County Youth Service Center for high school students.

At its eighth meeting, the Task Force learned about the Massachusetts container deposit program, learning about the environmental and economic benefits of that program. The Task Force received survey results of litter along county and state roads from the Solid Waste Coordinators of Kentucky and the Transportation Cabinet. These surveys showed that beverage container litter is higher than fast food packaging litter, and that litter continues to be a problem throughout the state.

At its ninth meeting, the Task Force received a report conducted by the University of Kentucky Center for Business and Economic Research that estimated the economic impact of a container deposit program on the retail industry in Kentucky. Results found that

\$109.6 million could be lost in retail sales, and 752 full time equivalent jobs could be lost per year in the food sales industry if a container deposit program were enacted.

Also at that meeting, the Task Force heard a presentation by a former Iowa Governor about the implementation and impact of Iowa's container deposit law. The Task Force learned that the program created jobs in supermarkets and redemption centers, substantially reduced roadside litter, and saved farmers over \$37 million in damages to crops and machineries. The Task Force learned that the law is supported by 85.4% of Iowa's residents.

At its tenth meeting, the Task Force learned about Michigan's container deposit program from a former state legislator and retailer who opposed the legislation when the bottle bill was introduced. This individual testified that the scientific and economic information presented by industry to show the detrimental effects of container deposit legislation did not prove to be true. Rather, Michigan had a net gain of over 4,800 jobs, and fraudulent redemption did not become a significant problem in Michigan.

Also at that meeting, the Task Force heard from the Butler County jailer about the use of inmates for roadside litter crews. This individual testified that most of the litter is fast food litter, and 30% of litter is beverage containers. He stated that once the road crews have completed a stretch of highway, the roadways are already trashed again. Finally, the Task Force learned about reverse vending machines from the Madison County Solid Waste Coordinator.

At its eleventh meeting, the Task Force received a presentation from a local retailer who has stores in eastern Kentucky and Virginia. This individual supports a traditional bottle bill, in which retailers redeem the beverage containers. Stating that it is unfair to have the beverage industry pay for a container deposit program, the retailer suggested an advance disposal fee on all products, especially newspapers and fast food packaging.

At its twelfth meeting, the Task Force discussed components of a comprehensive solution for reducing waste and promoting recycling. Task Force members stated that education and enforcement are key elements of a comprehensive solution. Task Force members did not agree on a way to generate money for education and recycling programs. The Task Force made no formal recommendations for its final report.

At its final meeting in November, the Task Force approved its final report to be submitted to the LRC in December.



**REPORT OF THE 1998-99  
SPECIAL TASK FORCE ON ELECTRICITY RESTRUCTURING**

**Sen. Larry Saunders, Co-chair  
Rep. Larry Clark, Co-chair  
Mr. Jack Conway, Co-chair**

Sen. Charlie Borders	Sec. James Bickford
Sen. David Boswell	Ms. Sammy Chaney
Sen. Marshall Long	Mr. Bob Gray
Rep. Stanton Cave	Dr. Merle Hackbart
Rep. James Gooch	Dr. Brenda J. Helton
Sen. Ernie Harris	Mr. Jody Lassiter
Rep. Dennis Horlander	Mr. John Stapleton
Rep. Charlie Walton	Sec. Marvin (Gene) Strong
Commissioner Bob Arnold	

LRC STAFF: Linda Kubala, Tanya Monsanto, and Sheri Mahan

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **SPECIAL TASK FORCE ON ELECTRICITY RESTRUCTURING**

**JURISDICTION:** House Joint Resolution 95, enacted by the 1998 General Assembly, created the Task Force on Electricity Restructuring. The resolution directed the group to carefully study the issue of electric restructuring in Kentucky and to analyze its impacts upon the Commonwealth. The resolution further directed the Task Force to report findings and recommendations to the Governor and the LRC by November 15, 1999.

### **TASK FORCE ACTIVITY**

The Special Task Force on Electricity Restructuring held 14 regular meetings between September 1998 and October 31, 1999. In addition, a public hearing was held in September 1999. The Task Force expects to hold a final meeting in December 1999 to adopt findings and recommendations, and to approve its final report.

The first several meetings of the Task Force concentrated on basic background information about the electricity industry, its current regulation, and changes that have made retail competition an issue for states. The Task Force hired a consultant to oversee a rigorous analysis of the implications of restructuring for Kentucky. The consultant presented background information or research products at several Task Force meetings. Expert witnesses presented information to the Task Force on specific issues such as transmission reliability, obligation to serve, and operating public benefit programs in a restructured environment. Public comment was invited, first from selected stakeholders on specified topics in Task Force meetings, and then at an open public hearing held in September 1999.

The Task Force structured the first several meetings to obtain background information about the electric industry, its present regulation, and restructuring initiatives outside of Kentucky. At the first meeting, the Task Force was given a very broad, factual overview of the industry. At the second meeting, staff of the Public Service Commission (PSC) explained in detail how and with what authority the commission currently regulates or oversees various electric utility activities. For each utility segment, the presenters specified current regulatory procedures and identified changes that would be likely in a restructured environment. The group learned about federal activities at the second and third meetings, and a Washington, D.C. attorney who works with state regulators explained state and federal regulatory jurisdictions. At the November meeting, a Commissioner from the Federal Energy Regulatory Commission (FERC) and a senior FERC official delineated the contents of proposed federal legislation and described the efforts of the FERC to create effective wholesale electricity markets and an open transmission grid. State restructuring initiatives were the focus of the December meeting, when a legislator from Ohio and a former legislator from Nevada, both of whom were

deeply involved with the restructuring legislation of their respective states, shared their experience and insights with Task Force members.

HJR 95 authorized the hiring of a consultant for the high level of expertise needed to conduct sophisticated economic analyses required for informed policy decisions. The Task Force issued a Request for Proposals for Consulting Services in December 1998. The co-chairs appointed a screening committee of Task Force members to review the proposals. In January 1999 the Task Force selected a consulting firm that worked closely with a research team comprised of LRC staff and the Public Service Commission (PSC) to generate and analyze the data required to answer the questions listed in the Request for Proposals. The consultant and staff research team began work in February and presented the findings and supporting data on each research component at subsequent Task Force meetings, making formal presentations in April, May, June, August, September, and October of 1999. While the conclusions and supporting data on all study components were presented to the Task Force, only the first and second interim reports to the Task Force had been released as of October 31. The four interim reports, which contain or will contain more complete data and explanation than did the consultant's presentations, are as follows:

- Interim Report No. 1: Marginal Cost of Electricity and Urban/Rural Impacts in a Restructured Electric Industry;
- Interim Report No. 2: Stranded Costs and Electricity Exports in a Restructured Electric Industry;
- Interim Report No. 3: Impacts of Electric Deregulation on the Kentucky Coal Industry and an Overview of Affiliate Transaction Issues; and
- Interim Report No. 4: Potential for Market Power Abuse in a Restructured Electricity Market.

In addition to the presenters already mentioned, the Task Force invited knowledgeable experts to provide greater insight on specific restructuring issues and policies. Nationally recognized experts spoke to the Task Force about emerging organizational structures as the industry becomes more market-oriented, and possible actions to avoid predicted problems and encourage competition. The former head of a regional reliability council presented insights into supply reliability issues. Similarly, experts in consumer affairs presented a range of information about consumer protection and educational programs being developed to ease the shift to a market structure. The head of the Energy Consortium Program, a product of several national associations of state officials, discussed ways to continue valued public benefits programs in a deregulated industry. The Economic Development Cabinet and Kentucky Coal Association presented Kentucky-specific information about effects of restructuring on industrial recruitment and coal markets, respectively.

The Task Force recognized the importance of obtaining input from stakeholders throughout the process, as well as the need to focus public comment on specific questions. Therefore, the Task Force held a public hearing in September 1999, open to anyone who

wished to speak. In earlier meetings, the Task Force invited specific stakeholder groups to present information and comment on the topic being considered at that meeting. In January utilities and contractors commented on utility holding company structures and proposed rules to govern the relations between the regulated and unregulated businesses of a utility or holding company. Industrial electricity users were invited to comment on restructuring and economic development at the May meeting. Several representatives of consumer interests spoke at the June meeting, which dealt with results of the stranded cost analysis. Finally, a mixed group of stakeholders, including the TVA, environmental, low-income, and senior citizens groups, addressed maintaining public benefit programs at the July meeting.

While the Task Force gathered a great deal of information in its interim work, it has not yet formalized its report of findings and recommendations to the Governor and the LRC. A meeting is planned for December to adopt findings and recommendations and to approve the final report of the Task Force.



**REPORT OF THE 1998-99  
TASK FORCE ON DPTS/911**

**Rep. James Gooch, Jr., Chair**

Rep. Joe Barrows	Mr. J. A. Jones
Sen. Dale ShROUT	Mr. Chuck Lambert
Sen. Elizabeth TORI	Mr. Ken Ledford
Rep. John Vincent	Mr. Todd Oetken
Mr. Robert Crutcher	Capt. John Patterson
Ms. Bonnie Cummings	Ms. Mary Robertson
Mr. Bill Davies	Capt. John Witt

LRC STAFF: Matt Udie, Linda Kubala, and Sheri Mahan

**PRESENTED TO THE  
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AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **TASK FORCE ON DPTS/911**

**JURISDICTION:** This Task Force was created by HB 560 (1998 Regular Session) to study whether owners or operators of a dispersed private telephone system should be required to connect each telephone extension to the enhanced 911 (E911) emergency service. The Task Force was directed to determine the cost, under a range of common conditions, of purchasing or upgrading the equipment and services necessary for this full connection. The Task Force was directed to report its findings, together with specific legislative recommendations, if applicable, to the Legislative Research Commission and to the interim committee with jurisdiction over matters concerning telecommunications services no later than August 1, 1999.

### **TASK FORCE ACTIVITY**

Enhanced 911 (E911) emergency telephone systems automatically forward the address and telephone number of the calling party to the person answering the call at the dispatch center. Unless special steps are taken, however, an emergency call from within a private telephone system will be only identified by the "outside" phone number used and the location of the system's central switchboard. Many private systems serve an extensive area, or several locations, hence the term "dispersed private telephone systems," or DPTS. Since the data base information transmitted to the dispatch center is for the private system, not for the telephone being used to report an emergency, the call may be routed to the wrong answering center, and emergency assistance may be sent to the wrong place.

HB 560 required that those private telephone systems that resell service to residential customers connect all telephone stations or extensions directly to the E911 system. It also established the Task Force on DPTS/911 to study the costs and benefits of extending similar requirements to other private telephone systems.

The Task Force on DPTS/911 held six meetings during the 1998-1999 interim. The Task Force heard testimony from representatives of telecommunications, business, and public safety interests. It obtained and analyzed DPTS legislation enacted by other states. It studied the technical requirements and equipment costs for connecting the stations in private systems to the E911 network, including the technical capacity of telephone companies operating in Kentucky.

The Task Force on DPTS/911 held its final meeting on May 27, 1999. At that time, the Task Force adopted a final report and twelve recommendations. The Report of the DPTS/911 Task Force, LRC Research Report 284, was presented to the Legislative Research Commission and to the Special Subcommittee on Energy in August, 1999.

### **Summary of Task Force Issues and Findings**

Basic questions addressed by the Task Force included:

- How frequently is emergency assistance delayed because of inaccurate emergency location information forwarded by a DPTS over the enhanced 911 system?
- How many private telephone systems are in use in Kentucky?
- What technical solutions are available to DPTS owners to send location information for stations or extensions to the 911 answering point?
- What is the cost of technical upgrades by DPTS owners if individual connections are mandated?
- Are there federal standards for DPTS equipment?
- How have other states handled this problem?

To determine whether the lack of complete automatic location information creates significant problems in Kentucky, the Task Force developed and sent a survey to 97 emergency dispatch centers in November 1998. The respondents reported that about 2% of 911 calls come from private telephone systems. While more than half of the respondents said they had experienced a discrepancy between the displayed address and the actual location of the emergency at least once a month, few reported that these mismatches caused a mistake or delay in the dispatch.

The Task Force also needed to know who would be affected by a change in current law. The Task Force tried to determine how many private systems exist in the Commonwealth by polling Kentucky's 20 local exchange telephone companies. The companies reported 2,928 Centrex systems, which operate much like Private Branch Exchange (PBX) systems but are located in telephone central offices. The companies also reported about 9,000 known Key and PBX systems, but said the figures included only selected customers for whom data was available, and thus underestimate the actual number of systems.

The Task Force collected information on the types of private systems operating in Kentucky, and on the costs of upgrading representative systems to connect to E 911. PBX and Centrex systems track the extension being used, and therefore are capable of signaling which station is making a call. Only the most sophisticated Key systems have this capability. The Task Force found that, given present technology, the costs of installing full E911 connections would fall most heavily on the smallest systems. This is because: (1) PBX upgrade costs do not increase in proportion to the number of extensions on a system; and (2) because Key systems, most commonly used in small applications, would have to be replaced if the law required information for each extension.

Finally, the Task Force reviewed federal and state actions to resolve this issue. Currently, there are no federal connection requirements, nor standards for E911-

compatible DPTS equipment. Five states have passed laws relating to this issue, with Illinois and Washington passing the most comprehensive legislation. Representatives of these two states shared their experiences with the Task Force. Illinois enacted broad requirements, but the law has been amended several times since 1995 to exempt Key systems, move enforcement powers, and delay compliance deadlines. Washington studied the issue in depth before recommending legislation, and used its findings to design a more flexible law. Most small, compact systems were exempted, and the requirements for larger systems are linked to performance, not hardware. A statewide 911 coordinator works with DPTS owners and operators to increase awareness of the requirements and to develop a variety of alternate solutions.

### **Recommendations**

The Task Force adopted twelve recommendations to address the relevant issues, but it did not draft specific legislation. The recommendations are summarized here. For greater detail, see the Report of the DPTS Task Force, LRC Research Report 284.

#### **Four Primary Recommendations**

- Retain the provisions of the 1998 legislation, HB 560, that require complete E911 connectivity for residential shared tenant telephone systems, and extend this to include all business shared tenant telephone systems as well. Both residential and business systems should comply by January 1, 2003, or two years after E911 service is implemented in the locality, whichever is later.
- Require private telephone systems serving multiple locations or serving buildings larger than 25,000 square feet to provide information to emergency dispatch centers identifying the general area where a 911 call was placed. The information should identify individual buildings, and floor and wing of larger buildings. Facilities with a 24-hour security force should be excluded from the requirement, but must file a location identification plan. System owners should comply by January 1, 2003, or two years after E911 service is available in the locality, whichever is later.
- Require all private telephone systems operating in jurisdictions where E911 service is available to develop a location identification plan with local public safety officials and the PSAP that serves that location.
- Establish a statewide 911 coordinator office. The coordinator should provide guidelines for evaluation. Compliance also should provide education, training, and technical assistance for 911 emergency dispatch centers and private multi-line telephone system owners and operators.

## **Other Recommendations**

- Any entity providing telephone service and any vendor selling private multi-line telephone system equipment should cooperate fully with PSAPs and the statewide 911 coordinator to identify businesses with private multi-line telephone system equipment and should maintain statistical data regarding the location of these systems.
- Any new, private, multi-line telephone system serving multiple locations or serving buildings larger than 25,000 square feet, purchased and installed after January 1, 2001, or two years after E911 service is available in the locality, should be E911 compatible.
- All multi-line telephone systems designated as Key systems should be exempt from all requirements, with the exception of filing a location identification plan.
- PSAPs should maintain statistical data regarding the incidence of incorrect dispatch caused by incorrect location information or any other data required by the statewide 911 coordinator, as established by administrative regulation.
- Any entity providing telephone service should provide full 911 and/or E911 connectivity to customers in areas where that service is available. These entities should collect and remit all appropriate fees. The subscriber line fee sections of the 1998 legislation should be amended to clarify who collects the fee, who remits the fee, and to whom the fee is paid.
- The subscriber line fee sections of the 1998 legislation should be amended to clarify who collects the fee, who remits the fee, and to whom the fee is paid.

**REPORT OF THE 1998-1999  
SPECIAL TASK FORCE ON FEASIBILITY OF  
RAILS-TO-TRAILS**

**Sen. Glenn Freeman, Co-Chair**

**Rep. Jodie Haydon, Co-Chair**

Sen. Paul Herron

Sen. Richie Sanders

Sen. Virgil Moore

Rep. Dwight Butler

Rep. Tim Feeley

Rep. Ruth Ann Palumbo

Rep. Jon David Reinhardt

Rep. Mike Weaver

Sen. Virgil Moore

Sen. Dan Seum

Sen. Joey Pendleton

Rep. Perry Clark

Rep. Tom Kerr

Rep. Frank Rasche

Rep. John Will Stacy

LRC STAFF: Ellen Benzing, Mac Lewis, Jonathan Grate, and Linda Hughes

**PRESENTED TO THE  
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AND THE  
2000 REGULAR SESSION OF THE  
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## **SPECIAL TASK FORCE ON THE FEASIBILITY OF RAILS-TO-TRAILS**

**JURISDICTION:** Recognizing the national policy of converting abandoned or unused railroad rights-of-way to pedestrian and nonmotorized vehicle roadways through the National Trails System Act and the growing number of railtrails throughout the United States, the 1998 General Assembly enacted House Concurrent Resolution 77. House Concurrent Resolution 77 directed the Legislative Research Commission to establish a special interim study committee to study the benefits, feasibility, and implementation strategy for a Rails-to-Trails Program in the Commonwealth of Kentucky.

HCR 77 noted that Kentucky ranks 47<sup>th</sup> in the United States with only four miles of railtrails, 1.65 at Cadiz, Kentucky, and 2 miles at Louisville, Kentucky. The resolution recognized that significant opportunities are being lost and that the conversion of abandoned or unused railroads to trails has been shown to benefit tourism, business development, preservation of transportation options, historic preservation, recreation opportunities, health, and other public benefits. The resolution required the Task Force to reports its findings and recommendations to the Legislative Research Commission by July 30, 1999.

### **TASK FORCE ACTIVITY**

During the 1998-99 Interim, the Special Task Force on the Feasibility of Rails-to-Trails held seven meetings prior to November 1, 1999. Following is a summary of testimony before the Task Force and the Task Force's activities.

Testimony included discussions from state and local governments, intergovernmental organizations and interest groups who conveyed the economic, health, and environmental benefits of railtrails. Representatives from Ohio and West Virginia discussed how their states maintained successful railtrail programs and noted the resultant benefits of their states' programs. Executive branch agencies spoke of mechanisms already in place which may facilitate a rails-to-trails program. Railroad companies raised timing concerns about a potential state railbanking law and safety concerns associated with trails located next to currently active railroad lines. The Farm Bureau raised objections to a rails-to-trails program on behalf of adjacent landowners while offering to work with the Task Force on reaching a middle ground.

Representatives from the Rails-to-Trails Conservancy and the Kentucky Rails-to-Trails Council presented a slide show of railtrails in the United States. The slide show depicted the railroads in their heyday at the early part of the century, their decline as a result of deregulation and other competing modes of transportation, and corridors that have been made into railtrails. There are currently 1,000 railtrails in 49 states totaling 10,275 miles with an additional 1,237 miles underway.

Two railroad corporations operating in Kentucky presented information about the Surface Transportation Board, the federal agency that oversees railroad abandonments; the railroad abandonment process; railbanking; and legal issues associated with abandoning a railroad corridor. One railroad company notified the Task Force of an abandonment in Harlan County and reported that it is willing to notify interested groups of future railroad abandonments. Harlan County local government officials petitioned the Surface Transportation Board to railbank the corridor.

Some of the executive branch agencies, including the Transportation Cabinet, the Department of Parks, the Heritage Council, and the Department for Local Government, discussed their roles and potential roles in a rails-to-trails program. The Transportation Cabinet administers the Transportation Enhancements Program under the Transportation Efficiency Act for the 21<sup>st</sup> Century, or TEA-21, which has provided much of the funding for railtrails in other states. TEA-21 authorizes innovative federal transportation spending by recognizing that bicycle and pedestrian travel are modes of transportation. The Act encourages states' Departments of Transportation to spend a portion of their federal transportation dollars, known as "enhancement funds," on bicycle and pedestrian facilities. At the inception of the Task Force, no railtrail projects in Kentucky had been funded through the Transportation Enhancements Program. However, several railtrail projects applied for funding for fiscal year 2000, and five received funding.

When studying mechanisms already in place to promote Rails-to-Trails under Kentucky law, the Task Force heard from representatives of the Kentucky Department of Parks. The 1998 Session of the General Assembly, through House Bill 643, codified as KRS 148.690(1) and (2), directed the Department to include abandoned railroad corridors in Kentucky's Trails System. The Department of Parks is charged with the duty to view abandoned railroad corridors for their possible conversion to trails. Due to financial constraints, the Department of Parks has not viewed any abandoned railroad corridors.

The Heritage Council administers the "Section 106 Process" of the National Historic Preservation Act. The Kentucky Historic Preservation Officer and his office have evaluated many historic railroad depots and tunnels. The Historic Preservation Officer reported that the depots and tunnels could be assets along the railtrails as visitor stations or scenic interest points and that his office was willing to help in the efforts of a statewide railtrail program.

To learn what other states have done, the Task Force invited representatives from Ohio and West Virginia to discuss their states' railtrail programs. West Virginia has a comprehensive statute establishing a Rails-to-Trails Program, while Ohio has no statute or state government supported railtrail program. Rather, Ohio has developed its 374 miles of railtrails through the efforts of the private non-profit organization, the Rails-to-Trails Conservancy.

Representatives from Renaissance Kentucky discussed their willingness to tie railtrail programs in with Renaissance programs. The Kentucky Bicycle and Bikeways

Commission also discussed its willingness to assist in a statewide railtrail effort. The Kentucky Bicycle and Bikeways Commission advocates and promotes bicycling as a legitimate part of the transportation system and economy, seeks to improve riding conditions and safety, and provides a voice for all cyclists in Kentucky. The Commission offered its knowledge in design, planning, and promotion as well as its established network of contacts to help Kentucky in its railtrail efforts.

Task Force staff created a map using a Geographic Information System to depict all of the abandoned railroads in the Commonwealth. There have been hundreds of miles of abandoned railroad corridor in Kentucky. It was reported to the Task Force by the Kentucky Rails-to-Trails Council that there are seven railtrail projects currently underway in the Commonwealth on a fraction of the abandoned corridors. These railtrail projects are: Lexington/Big Sandy Railtrail; Burnside to Daniel Boone National Forest Railtrail; Frankfort Railtrail; Lawrenceburg to Tyrone Railtrail; Madison County Wetlands Railtrail; Elizabethtown Railtrail; and the Central City to Greenville Railtrail.

### **Recommendations**

At the conclusion of the Special Task Force to Study the Feasibility of a Rails to Trails Program's work, a set of twelve recommendations in regard to the Rails-to-Trails question in the Commonwealth were submitted to the Legislative Research Commission for consideration by the 2000 Regular Session of the Kentucky General Assembly. Those twelve recommendations are set out below. The first nine recommendations require the enactment of legislation, with the seventh recommendation additionally requiring an appropriation. The remaining three recommendations do not necessarily require the enactment of legislation, but may be done on an agency's own initiative.

- 1) Have one central person in an appropriate state agency who is responsible for monitoring inter-agency collaboration on railtrail efforts and disseminating railtrail information, including accepting notices of railroad abandonments; alerting interested local governments, state agencies, and private groups; and providing information about available funding options (including TEA-21 applications).
- 2) Reauthorize the Task Force, perhaps including representatives from interested railtrail entities such as state government agencies and/or private interest groups. The focus could be on working with any physical assessment of corridors and creating a statewide plan for creating railtrails.
- 3) Have the Transportation Cabinet notify the Department of Parks of railroad abandonments.
- 4) Have the Transportation Cabinet keep a record of abandoned railroads in Kentucky.

- 5) Require that state agencies which receive abandonment notices (such as the Public Service Commission and the Historic Preservation Office) immediately forward those notices to the trail coordinator in the Kentucky Department of Parks.
- 6) Require the trails coordinator in the Kentucky Department of Parks to send letters to the Area Development Districts, local historical societies, local Chambers of Commerce, reauthorized task force members, the Kentucky Association of Counties, and any other pertinent local government organizations, notifying them of the potential for railtrail development in the Commonwealth.
- 7) Do a complete assessment of the abandoned railroad corridors in Kentucky (much like in West Virginia), including an on-the-ground assessment of the corridor's physical condition and the feasibility of converting it to a railtrail. Recommend that the corridors be mapped electronically with data convertible to internet format and create a website setting out the data and linking it to local tourism sites.
- 8) Recommend the enactment of a state railbanking law that provides for an increased time period for notices of railroad corridor abandonment, increases the number of entities notified of railroad corridor abandonments, allows for corridor preservation under Kentucky law, and excludes unsuitable properties from railtrail conversion.
- 9) Recommend legislation be created that specifies that the conversion of a corridor to a railtrail, with a provision for possible restoration of future service, is consistent with a railroad easement.
- 10) In addition to other efforts, work with the mechanisms already in place which provide for inclusion of railtrails in the Kentucky Trails System.
- 11) Have the Department of Parks comply with KRS 148.690(1) and (2), which provide that the Department of Parks shall review all formal declarations of railroad rights-of-way abandonments by the Surface Transportation Board for possible inclusion in the Kentucky Trails System.
- 12) Have an appropriate agency, such as the Trails Coordinator in the Kentucky Department of Parks, develop a "how-to manual" which explains the process for acquiring, funding, and developing a railtrail in Kentucky.

**REPORT OF THE 1998-99  
SPECIAL TASK FORCE ON FISHTRAP LAKE**

**Sen. Gary Johnson, Co-Chair  
Rep. Ira Branham, Co-Chair**

Sen. Charlie Borders  
Judge Executive Karen Gibson  
Secretary Ann Latta

Commissioner Kenny Rapier  
Rep. Chris Ratliff

LRC Staff: Henry G. Marks and Wilda Bond

**PRESENTED TO THE  
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2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **SPECIAL TASK FORCE ON FISHTRAP LAKE**

**JURISDICTION:** House Concurrent Resolution 125 (HCR 125) of the 1998 General Assembly created a Fishtrap Lake Task Force in order "to determine the feasibility and cost of establishing Fishtrap Lake as a Kentucky State Park."

### **TASK FORCE ACTIVITY**

The Task Force was appointed in March 1999 and met five times. Testimony and documents were received from private consulting firms, the Kentucky Tourism Cabinet and Department of Parks, the Department of Fish and Wildlife Resources, the Army Corps of Engineers, public officials, and private citizens of Pike County.

The Task Force reviewed proposals and designs from:

- The Kentucky Department of Parks (1973 for \$6,000,000; 1990 for an \$8 million lodge)
- Summit Engineering (1991; 1997 for \$5,603,400; 1998 for \$1,000,000)
- Environmental Design consultants (EDC) (1999 for \$5,458,115)
- Parsons Brinkerhoff (1997 trail design for \$1,000,000)
- The COE (1968 Master Plan and Supplements)
- Pike County Fiscal Court (1998 for \$1,000,000)
- Fishtrap Lake advocacy organizations (1999 horse park and swimming pool)

The Task Force reviewed the above designs and cost estimates along with an assessment of current recreational facilities and available utilities at Fishtrap.

Testimony was received from public officials and private citizens regarding their priorities and concerns regarding Fishtrap Lake. Below is a list of general concerns as they were stated to the Task Force on April 19, 1999, and June 3, 1999:

- Relating the new I-66 to Fishtrap Lake and a Fishtrap Lake State Park;
- Funding and obtaining support, and solving the problems which must be addressed before a park can be developed;
- Compensation through the development of a tourist economy for businesses that lost income when the lake was created; and
- Removing trash and placing a gate above the lake to prevent trash.

Citizens and officials also identified priorities for lake development as follows:

- A lodge;
- A state park, which would enable young citizens to remain in Pike County rather than seeking work elsewhere and which could be a catalyst for economic development through tourism, crafts, and industry;
- Improvements to the marina, including a restaurant;

- Development of one or two trail systems;
- A horse center at the Biggs area;
- A swimming pool at the Grapevine mini-park;
- Roads and access; an environmental impact study and road from the dam site to Grapevine Creek;
- A park at the Lick Creek ramp;
- Development of a camping facilities at the Millard end of the lake, a beach, and a fishing pier;
- A beach at Grapevine;
- Development of camp sites at Becky Bottom, Happy Hollow, Joe's Branch, and Hurricane;
- Keeping the level of lake at summer pool until November;
- Removal of the gates at Elkfoot;
- Returning the land around lake to the COE and put the 20 cents per ton royalty in a fund to pay for improvements;
- Promoting the lake as a tourist attraction; and
- Returning the artifacts removed from dam area and displaying them appropriately;

The Task Force received testimony and documents from the COE indicating two basic approaches to park and recreational facilities development at Fishtrap: official Kentucky State Park designation and development, or individual recreational project construction. The first would require the following:

- Submission by Parks of a park development plan to the COE;
- Initial review by the COE;
- COE Master Plan Revision;
- Environmental Assessments and Environmental Impact Statements;
- Negotiation of a lease for acreage and construction;
- Purchase of mineral rights if any mining areas affected; and
- Funding for marina purchase, facilities construction and operation;

Alternatively, COE personnel stated that most of the recreational facilities identified in the reviewed design proposals would not require the above procedure if done as individual projects.

The Task Force reviewed individual recreational facilities costs and comprehensive recreational and resort park design costs. A recreational park would cost about \$6 million to build and would require a subsidy of up to \$200,000 annually to operate. Some representative individual recreational facilities are as follows:

- Marina (\$.8 million to \$1.25 million);
- Community pool (\$1.5 million);
- Horse park (\$150,000);
- Trail system (\$1 million); and
- Lodge (\$9.7 million);

The Task Force found that constraints on park and recreational development at Fishtrap are as follows: drift and debris on the lake; Pollution and siltation; mining and mineral rights issues in the project area; and difficulty of access to the lake and lake recreational sites. On the other hand, the Task Force found that the following factors create potential for development at Fishtrap: a high level of community support and commitment; improving access to the lake; the availability of plans, cost estimates and utilities; the growth of tourism and recreational lake use; improvement of the recreational water quality of the lake; and the location of the lake.

### **Task Force Recommendations**

The Task Force considered three options:

**Option 1.** Defer state-level decisions regarding both state park designation status and recreational facilities development to another biennium.

**Option 2.** Enact legislation directing the Department of Parks to immediately pursue designation of Fishtrap Lake as a "Kentucky State Park" location by designing and securing approval for all required state park development plans, COE Master Plan revisions, environmental assessments, environmental impact statements, lease agreements, budgeted funds for any required mineral rights purchases, the marina purchase, infrastructure and recreational facilities construction, and subsequent operational costs.

**Option 3.** Use the existing plans, proposals, cost estimates, and testimony presented to the Task Force as the basis for identifying a priority list of recreational facility designs for immediate funding and construction through the next two biennial budgets of the General Assembly. These facilities would not be identified as, nor would they be a part of, a state park development plan. However, their construction, in and of itself, would not preclude any subsequent consideration of "state park" designation and development at Fishtrap.

On October 1, 1999, the Task Force discussed the options presented in this report and by unanimous vote of the members present the Task Force selected Option 3 as its recommendation.



**REPORT OF THE 1998 -99  
TASK FORCE ON FLOODPLAIN DEVELOPMENT**

**REP. DENVER BUTLER, CO-CHAIR  
SEN. DAVID KAREM, VICE-CHAIR**

Sen. Lindy Casebier  
Rep. Kevin Bratcher  
Mayor David Armstrong  
Judge Rebecca Jackson  
Mr. Jeffrey Klekner  
Mr. Bud Schardein

LRC STAFF: Donna G. Weaver, Alice A. Carter, Joe Pinczewski-Lee, and Cheryl J. Walters

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **TASK FORCE ON FLOODPLAIN DEVELOPMENT**

**JURISDICTION:** The 1998 General Assembly, with the enactment of House Bill 49, directed that a Task Force be created to study issues relating to recent flooding in counties containing a city of the first class and concerns about future development within the floodplain areas of these counties as well as existing draining and storm water capacities in those areas.

The Task Force's membership included the mayor of each city of the first class, the county judge/executive of each county containing a city of the first class, four legislative members representing counties with a city of the first class, and representatives of various groups including: the planning commission, the United States Army Corps of Engineers, the building and construction industry, the metropolitan sewer district, and community leadership consortiums.

### **TASK FORCE ACTIVITY**

The Task Force met once to investigate current activities and plans for floodplain abatement in Jefferson County. At the Task Force's July 1999 meeting, a representative of the Metropolitan Sewer District (MSD) who was also a member of the Task Force gave a presentation on how MSD is addressing the flooding problems.

The MSD representative explained to members of the Task Force that MSD has been working with regulatory agencies, city and county government, as well as citizens in developing solutions to the flooding problem. Rejecting a "piecemeal approach" as ineffective, the MSD has designed a plan that includes a combination of many elements to be implemented over a fifty year time span at an estimated cost of \$600 million. The plan's main objective is flood control and is also designed to improve water quality, land management, and quality of life. Some of the plan objectives are to: build more drainage basins; establish voluntary buyout program for homeowners in flood prone neighborhoods; reduce stream pollution and eliminate pollution from stormwater runoff; impose stricter controls over development and require new development to help alleviate existing drainage problems; require new sewers to be a part of all new development if streams are to be protected; enforce watershed management activities to reduce the pollution in the watershed's streams; improve urban streams through stream restoration and preservation (improvement efforts can include revegetation efforts using native plants, creating no-mow zones around streams, creating more instream habitat and other available options); establish "Greenways" programs to create natural corridors along a community's streams and return the streams themselves to a more natural state.

After a brief discussion of the concept plan that included an opportunity for the audience to ask questions, the Chairman stated that it would be in the best interest of all parties involved to resolve this problem at the local level through actions specified in the MSD concept rather than through the legislative process in Frankfort. Members of the Task Force agreed that the MSD's long range plan was movement in the right direction

towards addressing the immediate and future concerns of Jefferson County and that MSD had their support in progressing with these strategies.

Upon the decision of the Task Force to let the local parties involved resolve the issues locally, the chairman then determined that there was no further need for the Task Force to meet again after their July meeting, thus ending the activities of the Task Force at that time.

**REPORT OF THE 1998-99  
TASK FORCE ON FUNDING FOR TOURISM DEVELOPMENT**

**Rep. Rocky Adkins, Co-Chair  
Sen. David Boswell, Co-Chair**

Sen. Katie Stine  
Rep. Bob DeWeese  
William Hintze  
Ruth Hudson  
Secretary Ann Latta  
Judge Mike Miller  
Rep. Ruth Ann Palumbo

Commissioner Kenny Rapier  
Speaker Jody Richards  
Secretary Sarah Schaaf  
Ron Scott  
Commissioner Bob Stewart  
David Towell  
Jim Willman  
Lynn Winter

LRC STAFF: Mary Yaeger, John Buckner, Ellen Steinberg, and John Scott

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **TASK FORCE ON FUNDING FOR TOURISM DEVELOPMENT**

**JURISDICTION:** The Task Force was directed to study the long-term funding needs and options for tourism in the Commonwealth for the 21st Century.

### **TASK FORCE ACTIVITY**

During the 1998-99 Interim, the Task Force on Funding for Tourism Development held eleven meetings. The first three meetings emphasized the important role of tourism in Kentucky and the strategies used by the state to market tourism with available revenues. Tourism has been leveling off since 1996, after several years of steady growth. Department of Travel staff noted that Kentucky is usually a getaway location for tourists taking trips of two or three days' duration, and they demonstrated the promotional strategies used to attract travelers. Local initiatives were also described including the State Matching Funds Program and the hotel/motel taxes legislation, which funds local convention and visitors bureaus.

At the next four meetings the Task Force concentrated on studying other state marketing programs and budgets and comparing those to Kentucky Tourism Development Cabinet's budget sources. A representative of the National Conference of State Legislatures (NCSL), gave a summary of states' funding mechanisms for their tourism departments. The Task Force reviewed a list of suggested state funding approaches and invited several state representatives to present their approaches to the Task Force, including representatives from Missouri, South Carolina, Florida, and Arkansas.

In May, the Task Force joined the Tourism Development Symposium in Owensboro to participate in their annual educational symposium. The Task Force conducted its own meeting, and heard about the conditions that are necessary to have a successful tourism destination.

In addition to these areas of exploration, the Task Force learned how private advertising efforts could generate supplemental funds for state advertising budgets, and how golf courses and related area attractions can play a role in attracting tourists to the state.

### **TASK FORCE RECOMMENDED ACTION**

At its final meeting on October 6, 1999, the Task Force approved a draft report to be reported to the Legislative Research Commission. As part of this final report the Task Force included the following recommendations, without regard to importance or priority.

The Task Force on Funding for Tourism Development recommends that:

1. The Kentucky General Assembly create a funding mechanism similar to the Missouri plan, which would provide budget increases for tourism marketing based on

increased revenues above projected revenues, generated by tourism-related businesses;

2. Any increase in funds generated for marketing tourism appropriated by the Kentucky General Assembly include additional and new revenues for the Regional Matching Funds program;
3. The Kentucky General Assembly appropriate an increase in the Executive Branch budget for tourism marketing for the 2000 biennium;
4. The Kentucky General Assembly amend the current hotel/motel and restaurant tax statutes to promote the collection and allocation of local revenues for the sole purpose of promoting tourism and conventions;
5. The Kentucky General Assembly and the Governor analyze if and how a portion of revenues generated from any new programs might impact the tourism industry, and provide funds for tourism marketing programs from the revenues generated by any new programs;
6. The Kentucky General Assembly amend the current coal severance tax statutes to allow for flexibility in the use of these revenues for tourism-related projects; and
7. The Kentucky General Assembly appropriate additional regional marketing funds of approximately \$900,000 in the form of a special fund set-aside to be administered by the Secretary of the Cabinet for Tourism Development. The additional funds should be designated for specific niche marketing efforts that may cross county and regional lines and may involve linking attractions in at least three counties, targeting a specific tourism audience.

**REPORT OF THE 1998-99  
TASK FORCE ON  
HEALTH CARE SERVICES IN SCHOOLS**

**Sen. Vernie McGaha, Co-Chair  
Rep. Mary Lou Marzian, Co-Chair**

Viola D. Brown, R.N.  
Sandi Clark, R.N.  
Preston Lewis  
Karen Jones  
Lynn Luking

LRC Staff: Robert Jenkins, Ann Armstrong, Ellen Benzing, Jonathan Lowe, Murray Wood, Lorena Watson

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
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## **TASK FORCE ON HEALTH CARE SERVICES IN SCHOOLS**

**JURISDICTION:** 1998 RS HB 189 established this seven member special Task Force to study the nature and extent of the provision of health care services to children in schools by school personnel who are not licensed, certified, or permitted to perform those services.

### **TASK FORCE ACTIVITY**

After learning that certain teachers without sufficient training or education were required to provide health care services to their students, the 1998 General Assembly created the Task Force on Health Care Services in Schools to study the extent to which the problem existed around the Commonwealth. The Task Force held twelve meetings and visited the Family Resource and Youth Services Center at Mayfield Elementary in Richmond, Kentucky. Testimony was received from the Department of Education, the Department for Public Health, the Department for Medicaid Services, the Board of Nursing, the Kentucky School Board Association, the Kentucky Association of School Administrators, the Kentucky Parent and Teacher Association, the Kentucky School Nurses Association, the Kentucky Education Association, the Kentucky Dental Health Coalition, various school districts, the School Nurse Consultant from the Virginia Department of Public Health, and a school financing and policy expert from the National Conference of State Legislatures.

### **Statement of the Problem**

The problem was illustrated by a Task Force member who had personally been asked to perform a health care procedure by her principal. When she refused to administer an anti-convulsive medication through a rectal suppository that had been given to her in an unmarked package and after minimal instruction, the member faced disciplinary action, including loss of job. While court action ultimately resulted in the member retaining a teaching position, she nevertheless was transferred to a different position and only after suffering considerable stress and cost.

At the outset, the Task Force agreed that health care services in schools should only be performed by people who are qualified and trained to perform them; the difficulty was in determining the extent of the problem and whether the member's problem was anecdotal or systemic.

### **Types Of Health Care Services In Schools**

In Kentucky, some 85,000 school children have educational disabilities, some of whom have complex needs addressed in Individual Education Plans (IEP). Student health services may include emergency first aid, medication (both prescription and over-the-counter) administration, routine physicals, head lice screenings, and countless other health

services that require attention during school hours. Medication doses can total many thousands per school district per *month*.

To better understand the situation, the Task Force developed and distributed a survey to all school districts. Responses were received from 130 districts, representing 420,120 students, which is a little less than two-thirds of the student population in Kentucky in the 1997-1998 school year. Students with IEPs in the general education setting and in separate settings and students with 504 plans make up about 14% of the survey population. Sixteen districts have 0-10% of their students with special needs and ninety-nine districts have 11-20% of students with special needs. Four districts have over 30% of their student population made up of students with special needs.

### **United States Supreme Court**

In *Cedar Rapids v. Garrett*, a United States Supreme Court decision that was rendered in the midst of the Task Force's deliberations during spring 1999, the Court held that health care services that enable a disabled child to remain in school during the day provide the student with meaningful access to education. This opinion would broaden the array of services that schools generally are providing, and it would even include a requirement that a school pay a nurse to remain with a child throughout a school day. The Court's decision could have a dramatic effect on state funding.

### **Health Care Service Delivery In Schools**

Much Task Force discussion centered around who actually provides health services in the school setting. Many schools have nurses either on site or in a shared arrangement with other schools in the district. Issues arose about the delegation of nursing tasks to non-medical personnel, including teachers and aides, and the supervision and training that must accompany the delegation. It is the responsibility of the nurse to determine which tasks may be delegated and to document the training and supervision; the nurse's license to practice could be affected by inappropriate delegation.

In 146 of Kentucky's 176 school districts direct nursing services are provided either by a nurse on staff or one on contract through a local family resource center or health department. In addition, teachers, teachers aides, health aides, school administrators, and volunteer health care professionals provide health care services in schools, but training and qualifications vary. Procedures that require specialized knowledge or training generally are delegated by nurses to school personnel whom they have trained. The difficulty is that there are too few nurses in the schools to train, and there are no required statewide standards for health care services and no required statewide standards on medication administration.

Testimony to the Task Force revealed wide variations in the nurse: student ratio, ranging of from one nurse in one school with 600 students to another nurse who was

responsible for eighteen schools with 12,000 students. The statewide average is one school nurse for each 2,400 students.

Survey results found that over 50% of the health care services that are performed in schools are by nonmedical personnel. These services consist of the ones most utilized: oral prescriptions, asthma medication, over-the-counter drugs, emergency first-aid, head lice screening, and sick room duties.

Two-thirds of the districts that responded to the survey indicated that nonmedical staff could choose not to perform health care services. A corollary would be that one-third of the districts would not permit nonmedical staff to refuse to perform a health service without facing disciplinary action.

### **Standards For Health Service Delivery In Schools**

Standards for the delivery of health care services in schools are governed by state and federal law. Laws on nursing and physician practice deal broadly with the practice of nursing and medicine, but they do not specifically address the delivery of services in schools. Because of the lack of specific school health laws, much of what happens in school is a result of local school board policy and practice. School nurses are not mandated in schools.

The Board of Education through regulation requires each school to have a room or nurse's station for an ill child to rest. And, while not in regulation, the Department of Education distributes a written policy, adopted from the American Academy of Pediatricians' School Health Policy and Practice Manual, on medication distribution, and many districts have adopted the policy in a similar form.

School districts without nurses rely on the policy because there is no other source for policies. Other districts have their own policies, and some may be more stringent than the Academy's. Uniformity is difficult because local resources are not consistent; stringent policies may appeal more to districts that are able to afford more nurses, but a statute mandating those policies would have to keep in mind the limited resources of other districts.

Nurses may legally, within the scope of practice, delegate and supervise certain kinds of tasks to non-medical personnel; nurses know what their license permits and which duties may be delegated. Because some principals and administrators do not understand the restrictions that the scope of practice may impose, school personnel are sometimes asked to perform health care services for which they have not been trained by nurses.

Generally, school districts, like other state governmental bodies, have "sovereign immunity," which gives immunity from the standard form of negligence alleged in most lawsuits. Districts may waive that immunity to the extent they have liability insurance,

which is also necessary for suit in federal court, where state sovereign immunity protections do not apply.

## **Options For Health Service Delivery**

### **Family Resource and Youth Services Centers**

Family Resource and Youth Services Centers (FRYSC) were created as part of the Education Reform Act of 1990 and were designed to expand the ability of schools to provide children and their families "services which will enhance students' abilities to succeed in school." FRYSCs have mandatory core components that include preschool child care for 2-3 year olds, after-school child care for 4-12 year olds, training for families and child care providers, and health services or referrals for health services. Responses to the Task Force's survey indicate that thirty school districts employ eighty nurses in FRYSCs at a cost of over \$1 million. This number includes nurses who serve one school, who rotate regularly among all schools in a district, or who serve all schools in the district on an "as-needed" basis. Sixty-nine school boards directly employ 151 nurses at a cost of over \$2.5 million. The survey did not include Jefferson County data.

Two FRYSCs were highlighted during Task Force meetings. The Russell Springs Elementary FRYSC has been in existence for six years and contracts with the Russell County Health Department for health and nursing services. For the 1998 school year, it contracted for nursing services five days per week and received local and federal grant funding to help with costs. The nurse serves approximately fifty children each day. Both elementary schools in the district use the nurse to provide well-child services. Center staff testified that health service delivery in the schools had improved the access to health professionals for many children whose families experienced transportation difficulties.

Task Force members toured the Mayfield Elementary Family Resource Center, located in Richmond, Kentucky. The center contracts with the Madison County Health Department for nursing services. An established clinic is located within the school and serves students five days per week. The clinic secured dental services through an arrangement with the University of Kentucky Dental School in which the services are delivered in a mobile medical van on a regularly scheduled basis. The Center also uses telemedicine to enable physicians at the UK Medical School to examine students through video and camera equipment and to consult with the nurse and school officials. Health education and promotion activities are incorporated into school curricula.

The Somerset Independent School Family Resource Center recently received national recognition when chosen as a "National Demonstration Site for School of the 21st Century" by Yale University. As a demonstration site, the Center will model for the nation its programs of health services, after-school services, and adult literacy.

Each center's services vary because a FRYSC must be designed in response to local needs. Health services are a core component; however, the exact number of centers

that employ a nurse and the number that only provide referrals for health services is unknown.

### **Other School Health Clinics**

Testimony revealed innovative approaches to providing health care services in schools. Some schools are better at combining community resources, thereby bringing local resources into the schools. Hospitals may supply money, equipment, and personnel. Private physicians may provide money or time. Fayette County received a \$600,000 federal grant for the homeless population, spread over a three year period, to serve Harrison Elementary School's 242 students. This grant provided for a full-time school nurse, a full-time health educator, a part-time nurse practitioner, a social worker, a dental van through the UK dental program, a part-time psychologist, and a medical director. As a result of the success of that clinic, the hospitals in Lexington are funding other school-based clinics, contributing \$125,000 per year per school; five schools now have clinics.

### **Health Departments**

Public health nurses assist schools in the provision of health care services.

All public health nurses who provide services in the public schools work under protocols that had been developed, written, and signed by a local physician. These protocols are included in a manual that is available across the state to every nurse who works in public health.

There are 400 public health service delivery sites, and 200 of those sites are in elementary and middle schools where nurses provide public health services. Services are also provided in some family resource centers.

### **Funding**

Funding for school health services varies. While sixty-five districts are reimbursed under Medicaid, 111 districts do not seek that reimbursement because of the paperwork, insufficient administrative support, lack of knowledge of its availability, or low reimbursement rates.

Districts set aside varying amounts of money to staff nursing positions, and this money may come from general funds, local health care provider grants, federal programs, or other state programs. Many services are performed by local health department nurses who contract with the district; today, there are not only problems with districts having sufficient funds to pay for these contracts, but there are also problems with health department nurse availability due to statewide reductions in health department staffing.

Family resource centers also contract for nursing services. Funding for the centers exists for school districts with significant numbers of students in the free lunch program.

These centers often have innovative programs for health services, such as mobile dental agreements with the University of Kentucky or telemedicine projects. There are 400 public health service delivery sites, 200 of which are in elementary and middle schools where nurses provide the services.

Current nursing levels in Kentucky range from 1 nurse for 600 students, to 1 nurse for 12,000 students. National recommendations from the School Nurses Association (SNA) suggest a ratio of 1:750. To fund additional nurses to match the SNA recommendations would require an appropriation of approximately \$8,000,000.

## **Other States And Their Experience**

### **State Protocol And Funding Mandates**

Some state statutes address medication administration, providing that medications can only be administered by a certified school nurses. Most states with school service laws address administration by non-medical personnel by requiring adequate training, supervision, and monitoring. States also urge school districts to aspire to a certain nurse: student ratio, but ratios are not mandated due to funding problems.

There are a number of federal funding streams that states use for school health programs, including six specific block grants: Preventive Health Services, Safe And Drug Free Schools, Maternal and Child Health, Substance Abuse and Prevention and Treatment, Community Mental Health Services, and Community Services block grants. States also fund school health services with specific line-item appropriations in the budget process.

### **School Nurse Consultants**

Approximately thirty states have a school nurse consultant, employed in the education or public health agencies or, in some instances, both. Duties of the consultant including advising schools about nursing functions and the performance of school health services, as well as offering coordination, technical assistance, quality assurance, and collaboration with other professionals.

## **Issues Beyond The Task Force's Jurisdiction**

The Task Force recognized that all schools provide mental health services of some kind and that these services are no less important than physical health services. However, because the circumstances that brought about the Task Force involved physical health, the focus of the Task Force remained on physical health services.

Also not discussed was the "comprehensive" school health concept. The Centers for Disease Control and Prevention (CDC) has recommended certain core components that should be contained in each school district's comprehensive health program. The focus of the Task Force centered on the "health services" component of the CDC model,

although testimony explained how the Task Force's recommendations would overlap the comprehensive school health concept.

### **Recommendations**

The Task Force initially discussed the funding required to place nurses in each district to meet recommended nurse: student ratios of either 1:750 or 1:1000. After receiving estimates of \$6 million to \$8 million, attention was given to alternative methods of assuring that school personnel were adequately trained to perform health care services.

The recommendations are as follows:

- Create a school health position in the Department of Education and the Department for Public Health. These individuals would be registered nurses with a masters education who would be responsible, while working together, for providing technical assistance to schools and developing statewide protocols relating to the training of designated nonmedical school personnel, the delegation of nursing functions, data collection, and quality improvement measures.
- Require school health services to be provided in school districts by a (1) physician, (2) nurse, or (3) school employee who has been delegated the responsibility to perform the service, trained to do so, and who has been approved to perform the service by the person who has delegated the service.
- Permit the school employee to refuse to perform the health service if the employee has not been adequately trained, and prohibit disciplinary action from being taken against an employee who has refused to perform the service after not receiving proper training.

At the final meeting of the Task Force, a bill draft that contained all of these recommendations was discussed and approved.



**REPORT OF THE 1998-99  
TASK FORCE ON  
HISTORIC PROPERTIES**

**Sen. Ed Miller, Co-Chair  
Rep. Fred Nesler, Co-Chair**

Rep. Royce Adams  
Sen. David Boswell  
Mildred Cummins  
Frank Fitzpatrick  
Kevin Graffagnino  
Louis Karibo  
David Klingshirn  
Celeste Lanier  
Crit Luallen  
Sally Meigs  
Charles Midkiff

David Mohney  
Sen. Virgil Moore  
David Morgan  
Dr. William Mulligan  
Rep. Steve Nunn  
Dr. Tom Owen  
Kenny Rapier  
Armond Russ  
William Singer  
William Turner

LRC STAFF: Barri Christian, Anne Armstrong, Kim Burch, Deborah Crocker,  
Jamie Franklin, Joe Hood, and Terisa Roland

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## **TASK FORCE ON HISTORIC PROPERTIES**

**JURISDICTION:** SCR 95, passed by the 1998 General Assembly, established the Task Force on Historic Properties to conduct a study of state-owned historic properties and grounds and to make three basic recommendations: 1. Pros and cons related to centralized management of state historic properties; 2. The development of a long-term planning capability for state historic properties; and 3. The development of a comprehensive database of historic properties and grounds.

The Task Force was appointed July 1, 1998, and consisted of six legislators, nine citizen members, and heads of agencies within state government, which operate the state's historic properties. During the interim, the Task Force met eight times and concluded its mission in August, 1999.

### **TASK FORCE ACTIVITY**

At its first meeting, in October, 1998, the Task Force heard a status report on the implementation of final recommendations made by its predecessor, the 1983 Kentucky Historic Preservation Task Force. Consideration was given to a working definition of "historic," and an ad hoc working group was appointed to develop a definition to present to the entire Task Force. The Task Force discussed the need for a Kentucky Monument at the Vicksburg National Military Park and requested further information for the next meeting. A listing by agency of all known state government buildings constructed prior to 1948 (as of 1/99) was distributed.

At its second meeting, in November 1998, the Task Force adopted a working definition of "historic" property which was based on the criteria used by the National Register of Historic Places. The Task Force voted to send the Vicksburg Monument issue to the Veterans' Affairs Subcommittee for funding consideration. The Department for Facilities Management, the Division of Historic Properties, the Department of Parks, the Kentucky Historical Society, and the Kentucky Heritage Council presented reports on state historic properties under their jurisdiction and on their policies and procedures for protecting them.

At its third meeting, in January 1999, the Department of Parks and the Division of Historic Properties presented an update of the 1986 Parks Historic Property Survey. The Heritage Council discussed the National Historic Preservation Act and the Council's federal project review process.

At its fourth meeting, in February 1999, the Heritage Council presented a report on what other states were doing to protect their state historic buildings and grounds. North Carolina and New York were presented as national models.

At its fifth meeting, in March 1999, the Task Force adopted a more restrictive definition of "historic property" which added to the original definition a requirement of

historical, architectural, or archaeological significance. The group decided to survey all state agencies in order to inventory, describe, and document all state-owned historic properties. A property inventory survey form was adopted.

At its sixth meeting, in May 1999, the Division of Historical Properties presented a status report on the property inventory survey and predicted completion by late fall of 1999. A draft of the Task Force Final Report and Recommendations was discussed.

At its seventh and eighth meetings, in June and August 1999, the Task Force finalized its report and recommendations and referred its adopted version to the Capital Planning Advisory Board, as required by SCR 95.

**REPORT OF THE 1998-99  
PAUL MASON MEMORIAL TASK FORCE ON  
HIV/AIDS PREVENTION, SERVICES, AND FINANCING**

**Sen. Gerald Neal, Co-Chair**

**Rep. Tom Burch, Co-Chair**

Sen. Walter Blevins  
Sen. Tom Buford  
Rep. Kathy Stein  
Rep. Porter Hatcher  
Rep. Steve Nunn  
Molly Adkins  
Jeffrey A. Been  
Stephanie K. Benson  
Regina Botha  
Kimberly Burriss  
Scott Bowden  
Glyn G. Caldwell, M.D.  
Alan Cohen, M.D.  
Jodi Davis  
Jane Dodson  
Mary Beth Durnell  
Richard Greenberg, M.D.  
Rev. J. Bennett Guess

Melody Hamilton  
Gladys Hayes-Moore  
Anna Huang, M.D.  
Ellie Jackson  
Jimmie Johnson  
Laura Kaplan  
Kay Kirkland  
Karen W. Krigger, M.D.  
Geraldine Martin  
Patty Martin  
Barry Norris  
Claire Pomeroy, M.D.  
Michael Thompson  
Jim Titus  
Nikki White  
Marita A. Willis  
Krista Wood

LRC Staff: Robert Jenkins, Barbara Baker, Deborah Crocker, Lisa Whittaker

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## **PAUL MASON MEMORIAL TASK FORCE ON HIV/AIDS PREVENTION, SERVICES, AND FINANCING**

**JURISDICTION:** matters pertaining to HIV/AIDS prevention, services, and financing.

### **TASK FORCE ACTIVITY**

As of October 31, 1999, the Paul Mason Memorial Task Force on HIV/AIDS Prevention, Services, and Financing has met seven times during the 1998-99 Interim, with approval to meet in November and December.

#### **Historical Perspective**

During the fall, 1998, national publicity focused on the rising incidence of HIV and AIDS among the nation's youth. The drop in AIDS deaths of approximately 60% in 1996 had nearly leveled off, and AIDS had become the leading cause of death among African Americans aged 24 to 44. At least one-half of all new HIV infections were occurring among people under age 25, with the highest incidence among youth in the south, northeast, and west. While many people believed that AIDS primarily occurred in other parts of the country, a study conducted by the Centers for Disease Control and Prevention found that Louisville's AIDS incidence (9.6 per 100,000) among persons aged 18 to 25 ranked ahead of many large urban areas including, Dallas, Los Angeles, Chicago, Detroit, Cleveland, Boston, and Pittsburgh.

The Task Force's mission was to review the important issues of prevention, education, clinical care, surveillance, and research while targeting groups in higher incidence categories. To permit a more manageable discussion of the issues, four work groups were formed: Surveillance, Public Health, and Epidemiology; Coordinated Medical Care; Social Services; and Risk Reduction/Education.

During each meeting, Task Force membership divided into these work groups to discuss issues relevant to the work groups' jurisdiction and the members then reconvened to present work group findings to the full Task Force. During meetings in June, July, and August, testimony and technical advice were received from an HIV policy analyst from the National Conference of State Legislatures, an HIV policy specialist from the Centers for Disease Control and Prevention, a consultant from the National Alliance of State and Territorial AIDS Directors (NASTAD), and a deputy commissioner from the Tennessee Department of Health. The NASTAD consultant continued to offer assistance during subsequent meetings.

Preliminary recommendations were presented by the work groups to the full Task Force at the August 23, 1999 meeting. Public comment was received in September, and as a result of that testimony, the Task Force solicited comment from additional national

experts, including the director of the Maryland AIDS Administration and the director the Reporting and Analysis Section, HIV/AIDS Surveillance Branch for the Centers for Disease Control and Prevention. Following the testimony of these individuals in October, the Task Force again discussed its preliminary recommendations and now stands prepared to consider final recommendations at its November, 1999 meeting.

### **Proposed Recommendations**

Each work group made preliminary recommendations to the Task Force. These recommendations, and a brief explanation, are as follows:

#### **Surveillance, Public Health, and Epidemiology Work Group**

Understanding the prevalence and the incidence of HIV infection at the state and local level are critical to assuring that appropriate prevention interventions are in place and that allocation of human and financial resources are sufficient for the delivery of treatment, care, and social services needed by those living with HIV and AIDS. Advances in both the efficacy of prevention interventions and the value of early and sustained antiretroviral therapy are a matter of record and have become a standard of public health practice for disease prevention and the reduction of disease morbidity and mortality.

Accurate data on the level of disease burden within the state and local community is critical to developing the public and private health care community's response to this epidemic. Assuring strong confidentiality and privacy provisions are essential to protecting those affected and their health care providers. Future federal funding and consequently the need for additional state funding will likely be based on the level of HIV disease rather than the number of persons reported as diagnosed with AIDS.

The issue dominating the work group's discussion was the proper method for reporting HIV positive cases. Two systems are used in other states: eight states report their cases by use of a "unique identifier"; thirty-two states report by use of the person's name. The clear consensus of the Task Force was that reporting by one of these methods must occur to enable all health care providers and disease prevention specialists to better understand the extent of the HIV problem, to properly allocate resources, and to secure federal or private funding that may be tied to this greater understanding.

The Surveillance, Public Health, and Epidemiology Work Group recommends that the Task Force urge that the General Assembly to:

1. Enact legislation requiring physicians and other health care providers to report, by name, any person diagnosed as HIV positive. All data, including names, collected for surveillance purposes will be used solely for the singular purpose of epidemiological monitoring, and no names shall be reported to the Centers for Disease Control and Prevention (CDC). This legislation should be consistent with the Guidelines for National HIV Case Surveillance as issued by the Centers for Disease Control and

Prevention in December 1998. Anonymous testing would be permitted. To enhance the accuracy of HIV surveillance, laboratory reporting should be required to include viral loads and CD4 assays. Whenever less restrictive data identifying requirements are identified by the CDC, the Department for Public Health shall evaluate and, if possible, adopt the new requirements.

2. Enact legislation that provides for the confidentiality and privacy of all reports, records, and data pertaining to testing, care, treatment, reporting and research associated with HIV disease. This legislation should define under which circumstances this information might be shared, i.e., to protect the health of an individual, duty to warn known partners, diagnosis and care for a patient, meeting epidemiological reporting requirements. This legislation should have strict and severe sanctions for breeches of confidentiality including fines, civil liability, and any combination of fines and civil liability.
3. Enact legislation that defines those sanctions that would result if a physician or health care worker failed to report HIV infection or breached confidentiality or privacy laws. Consideration should be given to sanctions that would include revocation of license for repeated failure to report.
4. Enact legislation that requires the Department for Public Health, in cooperation with state universities, to conduct professional education necessary to inform physicians and health care providers about HIV surveillance and reporting requirements and requirements for maintaining the confidentiality and privacy of HIV-related data, information, and reports. This information would be included in the current continuing medical education requirements for physicians.
5. Review and strengthen, as necessary, anti-discrimination statutes to protect the rights of persons infected with HIV/AIDS.
6. Enact legislation or promulgate an administrative regulation that describes the requirements of the Department for Public Health in maintaining security of HIV case reports, consistent with the CDC grant requirements.
7. Require adoption agencies to document HIV and hepatitis A, B, and C status of all infants offered for adoption and birth mothers offering a child for adoption.
8. Appropriate resources sufficient to assure the implementation of this work group's recommendations.

### **Coordinated Medical Care Work Group**

While there are many physicians across the state who may treat a person living with HIV or AIDS, only a handful of specialists in the larger metropolitan areas treat most of these patients. University of Kentucky physicians treat those persons from much of

eastern and south-central Kentucky and Fayette County, and University of Louisville physicians treat many persons from western Kentucky and the very large Louisville metropolitan area, while a Paducah AIDS clinic treats many of the patients in the extreme western Kentucky area. Much of this treatment is free or reimbursed at a nominal rate, severely straining the involved health care providers' resources and limiting their capacity to treat new patients.

An additional problem exists with the health professional who treats only one or two HIV or AIDS cases. This professional, who has little or no experience, is obtaining "on the job" experience at the expense of the patient.

The importance of ensuring that health professionals learn about advances in HIV/AIDS treatment is illustrated in the care of pregnant women. If a woman who is infected with HIV receives the appropriate medication during her pregnancy and delivery, the rate of perinatal transmission can be reduced nearly to zero. It is important to identify the infected woman; a physician who is not aware of actual risk factors may not know to recommend HIV testing to her.

An HIV/AIDS Advisory Council within the Department for Public Health would further study HIV prevention and AIDS treatment. Gathered data would enable the department to assure that care would be given by health care specialists who were trained on established guidelines; for example, an education program would teach primary care and birthing specialists about the risk factors for HIV and the appropriate treatment protocols. The council would inform Kentucky's community-based organizations and health care professionals about federal and private grant or funding opportunities.

The Coordinated Medical Services Work Group recommends that the General Assembly enact legislation or direct the respective state agencies to implement these recommendations to assure the continued availability and better coordination of medical services to fight HIV and AIDS:

1. Infuse, for a period not to exceed two years, \$200,000 per year for the University of Kentucky Division of Infectious Disease, \$300,000 for the University of Louisville WINGS Clinic, and \$150,000 for Heartland Cares (Paducah) to subsidize care for uninsured patients with HIV/AIDS, with the difference in dollars for each clinic based on the number of HIV patients in the clinic's respective geographic area.
2. Create an HIV/AIDS Advisory Council within the Department for Public Health to:
  - a. Explore the feasibility, design, cost, and funding of centers of excellence to deliver coordinated medical and related care to all people with HIV/AIDS in Kentucky. This would include ensuring access to HIV expertise (including current national clinical guidelines and practice standards for HIV/AIDS), primary care, drugs, specialists (including psychiatrists and mental health

- specialists), case management, dental care, chemical dependency treatment, and basic needs, such as housing and food;
- b. Assess resources and gaps in services for persons with HIV/AIDS;
  - c. Perform an assessment of the unique needs of persons with HIV/AIDS who live in either rural or urban areas of Kentucky;
  - d. Establish a uniform database for tracking clinical parameters and outcomes while ensuring confidentiality;
  - e. Explore the benefits and costs of ensuring access to a case management system for all patients with HIV/AIDS;
  - f. Establish a mechanism for coordinated identification of and application for federal foundation funding to enhance services to persons with HIV/AIDS;
  - g. Make future policy recommendations; and
  - h. Report findings to the Interim Joint Committee on Health and Welfare.

Membership of the HIV/AIDS Advisory Council would include a physician from the WINGS clinic and University of Kentucky HIV/AIDS clinic, representatives from managed care organizations, insurance companies, public health, care coordinators, Department for Medicaid Services, and individuals with HIV, PWAs, and the AIDS Consortium. If possible, membership would assure geographic representation of all regions of the state, gender and racial equality, and would represent all populations at risk for HIV.

3. Request \$200,000 to fund an eighteen month study, by the HIV/AIDS Advisory Council, of the items listed in Recommendation #2.
4. Integrate all of the advisory committees recommended by the various work groups into one advisory group.

### **Social Services Work Group**

The availability of social and support services varies considerably across the Commonwealth, and there is no comprehensive listing of all available resources. There is no quality control, and there are no outcomes measures. Care coordinators in the health departments help AIDS patients identify the resources available in their communities, but the coordinators' expertise is dependent on their caseload, training, and commitment.

A thorough review of resources would enable the Department for Public Health to better assign its personnel and appropriate its funds. Information could be shared with the Department of Corrections to assure a continuum of care for that high-risk population. Minority needs could be assessed; a Spanish-speaking interpreter could educate migrant workers about the disproportionate presence of HIV in their community. An HIV/AIDS Advisory Council would assist the department with this evaluation.

The Social Services Work Group recommends that the General Assembly enact legislation or direct the respective state agencies to promulgate regulations to implement

these recommendations to assure that quality social services are available to persons living with HIV/AIDS:

1. Direct the Cabinet for Health Services to conduct an independent review of the Guidelines for Care Coordination with the expressed intent to assure that they are consistent and comprehensive and that care coordinators have as their priority assuring access and sustaining individuals infected with HIV/AIDS in primary HIV-related medical care. Further, direct the cabinet to conduct annual objective peer reviews of each care coordination agency to assure that care coordinators are in compliance with these guidelines. Finally, assure that the cabinet conducts periodic outcome evaluations to measure the quality and impact of this service delivery system.
2. Direct the cabinet to review the need for additional care coordinators to assure that client loads are manageable. Recommended client loads should not exceed 40-50 clients per care coordinator. If, after this review, the cabinet finds the need for additional staff, the cabinet should develop a plan and budget request for hiring and locating additional care coordinators in areas of greatest need.
3. Direct the Cabinet for Health Services to review their eligibility criteria for persons who wish to receive treatment medications through the Kentucky Drug Assistance Program to make sure that these funds are funds of last resort. (Currently, clients are not required to apply for and be denied Medicaid coverage; this is a cost-saving method used by most other state drug assistance programs). Further, direct the Cabinet to review its current drug dispensing system to assure that clients have ready access to needed medications.
4. Direct the Cabinet for Health Services and the Department of Corrections to develop programs as recommended by the Risk Reduction/Education Work Group.
5. Direct the Cabinet to establish and support an HIV/AIDS Advisory Committee that is comprised solely of persons living with HIV/AIDS and representative of each geographical region in the Commonwealth. This committee should meet regularly to provide advice on program plans, policy, and implementation, and it should also be instrumental in conducting annual needs assessments of persons living with HIV/AIDS in Kentucky.
6. As witnessed through the care coordinator program in Lexington and agricultural regions in Kentucky, there is a need for Spanish interpreters to assist with prevention, treatment, and service efforts. Money is requested for hiring an interpreter for this specific need. If migrant workers are used to help with economic development in the area, the state should pay for efforts to inform them of a problem about which they may have had little knowledge in their native country.
7. There is a great need for better and mandated HIV/AIDS education in all health departments, especially those in eastern and western Kentucky, and not just those

health departments in Lexington and Louisville, before HIV/AIDS becomes even more of an epidemic in those areas.

8. Appropriate sufficient money to fund community-based organizations, especially in eastern and western Kentucky where there are none, to develop trusting relationships to provide hard reduction and prevention of HIV/AIDS.
9. Enact legislation that assures the appropriation of funds sufficient to carry out legislation or directives recommended above. The Task Force may want to consider asking each affected cabinet to make recommendations to the legislature on the level of resources that will be required to carry out these activities. Further, the legislature may want to require periodic reports from the respective agencies on their progress in implementing these recommendations.

### **Risk Reduction/Education Work Group**

Appropriate education of all Kentuckians, whether they be students, teachers, or health care professionals, is necessary in the fight against HIV and AIDS. Current state law requires education of a wide array of health and corrections professionals, but this education is not sufficiently updated from year to year and is not sufficiently specific within the subspecialties of those occupations; for instance, an OB/GYN physician may not be receiving education about recent advances in limiting perinatal transmission of HIV.

Education should ensure that individuals who work with persons who are infected with HIV/AIDS, affected, or at risk receive education on transmission, prevention, psychosocial, risk assessment, and referral sources. Better efforts at education should be available in the schools and should be age-appropriate. Faith-based communities should be invited to participate in prevention and education activities.

The Risk Reduction/Education Work Group recommends that the General Assembly enact legislation or encourage the respective agencies to promulgate regulations to implement these recommendations to further prevent the spread of HIV in the Commonwealth of Kentucky:

1. Enact legislation that mandates age-appropriate education on the transmission of blood-borne pathogens, including but not limited to HIV, HAV, HBV, and HCV. The timing and frequency of this education, as well as the curriculum to be used, should be the responsibility of the local school board. Curriculum should be based on science and approved by the Centers for Disease Control and Prevention. Education should be delivered at least once during the junior high school years and once during the high school years. The legislature should appropriate funds sufficient for the Department of Education to carry out this mandate. The legislature, along with the Department of Education, should determine incentives for school systems, both public and private, to carry out these requirements.

2. Enact legislation that removes the legal barriers for the possession, distribution, and purchase of sterile injection equipment to prevent the further transmission of blood-borne pathogens. This legislation should permit the sale of sterile needles by a pharmacist as recommended by the American Pharmacists Association, and as would be consistent with any regulations promulgated by the Kentucky Board of Pharmacy. The legislature and the administration should encourage communities, where injecting drug use and transmission of blood-borne pathogens are prevalent, to organize and implement comprehensive harm reduction programs consistent with the values and norms of that community.
3. Enact legislation that requires the Cabinet for Health Services to develop and implement a statewide media and educational effort that discourages the use of illegal drugs, particularly by adolescents and young adults. Direct the cabinet to give priority for assuring priority access to drug treatment programs for persons infected with HIV, HBV, and/or HCV.
4. Urge the Cabinet for Health Services to develop active partnerships with willing faith-based communities to seek their involvement in education about illegal drug use and the value of harm reduction programs in the prevention of disease transmission.
5. Enact legislation that requires education and continuing education for health care professionals and other occupations that may be subject to wide exposure of many populations on the prevention of blood-borne pathogens. The goal is to ensure that individuals who work with persons who are infected, affected, or at risk receive education on transmission, prevention, psychosocial (how to communicate with the population), risk assessment, and referral resources. The education should be specific to the specialty of the health care professional or other occupations. These education programs should be designed to provide the latest information available and carried out by the state universities in collaboration with the respective professional associations and societies.
6. Direct the Department of Corrections and the Cabinet for Health Services to develop two programs for incarcerated individuals including juveniles in detention centers: The first program would assure the existence of peer-to-peer education and prevention programs in all reception centers for incoming prisoners, and assure that each prisoner receive information on the prevention of blood-borne pathogens and sexually transmitted diseases upon their release or parole from the correctional institution. Second, assure that both agencies institute a system-wide program whereby any person known to be infected with HIV and who is released or paroled from a correctional institution has the benefit of discharge planning and coordination that will permit and encourage continuity of care and treatment outside of the correctional system. Jails and any other state correctional facilities that are operated or maintained by counties or any other state or local agency, department, or entity should also be subject to the requirements of this recommendation.

7. Direct the Cabinet for Health Services to require collaboration between prevention and care providers to assure that care providers incorporate into their care plans information on risk reduction and the importance of practicing healthy behaviors to avoid the further transmission of disease by those already infected.
8. Direct the Cabinet for Health Services to organize and support an HIV advisory committee comprised solely of persons living with HIV and AIDS and ensure, to the extent possible, geographic, race, and gender representation. The work group recognizes that the most effective prevention programs are peer-based, and personal investment in the program is critical.
9. Mandate HIV education to all obstetricians and licensed birthing personnel in order to reach the achievable goal of no new HIV transmissions to newborns. All cases of newborns with HIV infection will require review by state health department officials and a subsequent report of recommendations.
10. Provide pharmacological consultation reimbursement with written documentation of pharmacists working with HIV physician specialists in a team approach, rendering comprehensive care to the HIV positive patient. Documentation should include the date of interview, assessment of timely drug refills, side effects, problems, remediation, and outcomes noted. The interview should last at least 20 minutes.
11. Require HIV pharmacological certification of pharmacists participating in the reimbursement program, in addition to already recommended continuing education training on HIV/AIDS.
12. Enact legislation that assures the appropriation of funds sufficient to carry out legislation or directives recommended by this work group. The Task Force may want to ask that each affected agency or cabinet make recommendations through the executive branch to the legislature on the level of resources that will be required to plan, implement, and evaluate these activities. The legislature may want to consider requiring periodic reports from the respective agencies on their progress in implementing these recommendations.



**REPORT OF THE 1998-99  
TASK FORCE ON INFORMATION TECHNOLOGY**

**Sen. Walter Blevins, Co-Chair  
Rep. Charles Geveden, Co-Chair**

John Y. Brown III  
Michael T. Childress  
Chris Clark  
David Couch  
Bruce K. Davis  
Jim Ed Devers  
Mike Donnelly  
Edward B. Hatchett, Jr.

Stephen L. Henry  
Cindy James  
Eric Lakes  
Ralph Long  
Michelle Madison  
Tom Riffe  
Aldona Valicenti  
Jim West  
Scott Willett

LRC STAFF: Joyce Crofts, Jim Swain, Tim Lowry, Danny Jackson, Dan Jacovitch,  
Henry Marks, Scott Rowe, Matt Udie, and Peggy Sciantarelli

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## **TASK FORCE ON INFORMATION TECHNOLOGY**

**JURISDICTION:** Review current and emerging information technologies that impact both the public and private sectors; review associated issues and application of the technologies; keep the General Assembly informed regarding the technologies and their impact, and report its recommendations to the Legislative Research Commission.

### **TASK FORCE ACTIVITY**

During the 1998-99 Interim, the Task Force on Information Technology held twelve meetings prior to October 1, 1999. Following is a summary of its activity.

In the first meeting, Task Force members representing the three branches of state government and private sector organizations reviewed the information technology applications currently used by their branch or organization and suggested potential IT issues for the Task Force to address. The second meeting was devoted to a briefing on the Commonwealth Information Technology Transformation Initiative and a discussion of proposed issues. The tenth meeting consisted of a status briefing on the use of information technology by the executive branch and, in particular, by the state Department of Education; and the last meeting was a discussion of the Task Force's recommendations.

In the third and fourth meetings, the Task Force focused on the shortage of information technology workers in both the public and private sectors and on methods of attracting and retaining IT workers. Governments are especially hard hit because their low salary schedules and often outdated hardware and software cannot compete with those of the private sector. The Task Force discussed the status of recruitment and retention in state government with the Secretary of the Personnel Cabinet, and in the private sector with the Chief Information Officer of the executive branch, formerly employed by a national corporation. The role of the state's educational institutions was discussed with officials from the Kentucky Community and Technical College System and with the President of the Council on Postsecondary Education.

Recognizing that Kentucky is on the brink of either moving forward into the new knowledge-driven economy or falling further behind in the race to be globally competitive in this new economy, the Task Force devoted four meetings to a review and discussion of the state's current economic development activities and programs to attract and support IT businesses, especially young businesses, and to the pursuit of what actions the state needs to take to be able to participate in a knowledge-driven economy. The Task Force discussed the current status with officials of the Economic Development Cabinet, in-the-trenches experiences with three IT entrepreneurs in Kentucky, and methods of establishing an environment that will support the creation and growth of IT business with a national consultant.

In the ninth and eleventh meetings, the Task Force heard presentations by two national experts on electronic signatures and digital signatures. As more transactions and communications that require security and authenticity travel on a network (the Internet) that has no inherent security, questions arise regarding the authenticity and integrity of electronic messages and documents. Electronic signatures, digital signatures, and encryption are the technical means to verify the sender and ensure that the message has not been altered in transmission. The experts reviewed electronic and digital signature legislation at the state, national, and international levels, reviewed the new model law on electronic signatures approved by the National Conference of Commissioners on Uniform State Legislation (NCCUSL), and discussed the legal issues involved in this type of legislation.

**REPORT OF THE 1998-99  
SPECIAL TASK FORCE ON LOCAL GOVERNMENT IN  
COUNTIES CONTAINING A CITY OF THE FIRST CLASS**

**Rep. Mary Lou Marzian, Chair  
Sen. Dan Seum, Vice Chair  
Rep. Bob DeWeese, Vice Chair**

Sen. Lindy Casebier	Alderman Cyril Allgeier
Sen. Ernie Harris	Alderman Bill Allison
Sen. David Karem	Mayor David Armstrong
Sen. Marshall Long	Sheriff John Aubrey
Sen. Gerald Neal	Mayor Susan Barto
Sen. Julie Rose	Alderman Paul Bather
Sen. Larry Saunders	Alderman Denise Bentley
Sen. Tim Shaughnessy	Commissioner Joe Corradino
Sen. Elizabeth Tori	Alderman Barbara Gregg
Rep. Kevin Bratcher	Alderman Greg Handy
Rep. Tom Burch	County Clerk Barbara Holsclaw
Rep. Denver Butler	Judge Rebecca Jackson
Rep. Larry Clark	Mayor Jim Jenkins
Rep. Perry Clark	Alderman Dan Johnson
Rep. Ron Crimm	Alderman Steve Magre
Rep. Tim Feeley	Commissioner Russ Maple
Rep. Porter Hatcher	Alderman Reginald Meeks
Rep. Bob Heleringer	Alderman George Melton
Rep. Dennis Horlander	Steve Miller
Rep. Joni Jenkins	Mayor Bob Murphy
Rep. Susan Johns	Commissioner Darryl T. Owens
Rep. Eleanor Jordan	Mayor Cleveland Parkins
Rep. Charles Miller	Mayor Dan Ruckriegel
Rep. Steve Riggs	Alderman George Unseld
Rep. Tom Riner	Alderman Tina Ward-Pugh
Rep. Jim Wayne	

LRC STAFF: Peggy Hyland, Jamie Franklin, Mark Mitchell, Michael Meeks, Alice Carter, Kelly Smith, Joe Pinczewski-Lee, and Rita Ratliff

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## **SPECIAL TASK FORCE ON LOCAL GOVERNMENT IN COUNTIES CONTAINING A CITY OF THE FIRST CLASS**

**JURISDICTION:** The 1998 General Assembly enacted 98 HB 624, which created the Special Task Force on Local Government in Counties Containing a City of the First Class to review and study local government in those counties and ways to promote efficiency, avoid duplication, and advance sound, economical management and practices relating to the governmental resources of the citizens of those counties.

### **TASK FORCE ACTIVITY**

The Special Task Force on Local Government in Counties Containing a City of the First Class has met eight times and anticipates two additional meetings before completing its work in December. The first four meetings were devoted to information gathering. Because the issue is one that has been studied before, time was taken to review previous work and to become acquainted with the current structure and functioning of government in Louisville and Jefferson County. To this end, the Task Force heard presentations on the following topics:

- Current organizational structure, jurisdiction, services, taxes, and joint agencies of Louisville and Jefferson County governments;
- Changes in the recently adopted Cooperative Compact between the city and county;
- Findings and recommendations of the 1996 Jefferson County Governance Task Force;
- The impact of government structure on economic development, as presented by Greater Louisville Inc.;
- Communication systems used by Louisville Police and Jefferson County Police, and concerns about their compatibility; and
- Small cities in Jefferson County, as presented by the President of the Jefferson County League of Cities.

In addition, the Task Force received testimony from the public on the issue of the structure and function of local governments in Jefferson County.

Following the information gathering phase of its work, the Task Force reviewed the various options available to it regarding the reorganization issue, including maintaining the status quo, merger or realignment of additional services and agencies, reorganization or merger of existing local governments, and creation of a new local government structure for Jefferson County. The County Judge and Deputy Mayor of Louisville, on behalf of the Mayor, presented visions for government in Louisville and Jefferson County. They were asked to develop a specific proposal for consideration by the Task Force. At two separate meetings, the Task Force had presentations on specific reorganization proposals, one from a member of the Louisville Board of Aldermen and the other from the Mayor and County Judge.

At the September meeting, the Mayor and County Judge presented a single, unified merger proposal. The details of that plan are currently under discussion. The Mayor and County Judge are having a cost analysis of their proposal prepared and that will be reported to the Task Force in December. The Task Force will be reviewing the proposal, cost, and legislative options before completing its work.

The original deadline for submission of the Task Force report was August 1, 1999. The Task Force submitted a status report to LRC and requested an extension to meet through December, in order to receive and review proposals, and LRC approved that extension. The Task Force will consider recommendations to the 2000 General Assembly.

**REPORT OF THE 1998-99  
TASK FORCE ON LOCAL GOVERNMENT ORGANIZATION**

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

Sen. Paul Herron, Jr.  
Sen. Joey Pendleton  
Sen. Julie Rose  
Rep. John Adams  
Rep. Jeff Hoover  
Rep. Marie Rader  
Commissioner Bob Arnold  
Judge Michael Buchanon  
Mr. James Everett  
Mayor Albert Jones  
Judge Van Knight  
Mr. Jas Sekhon

Sen. Gary Johnson  
Sen. Richard Roeding  
Sen. Jack Westwood  
Rep. Adrian Arnold  
Rep. Tom McKee  
Rep. Steve Riggs  
Mayor Charlie Beach  
Sheriff Ted Collins  
Mayor Tom Holocher  
Mr. Carroll Knicely  
Mr. Mike Libs  
Mayor David Wilmoth

Ms. Gail Wright

LRC STAFF: Jamie Jo Franklin, Alice Carter, Stewart Willis, Adell Kemper,  
Joe Pinczewski-Lee, Kelly Smith, and Cheryl J. Walters

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## **TASK FORCE ON LOCAL GOVERNMENT ORGANIZATION**

**JURISDICTION:** The 1998 General Assembly with the enactment of Senate Bill 326, directed that a special Task Force to study the structure, organization, and function of cities, counties, and special districts be created for the 1998-99 interim period. The twenty-seven member Task Force is made up of legislative members, elected city and county officials, representatives of area development districts, and the Commissioner of the Department for Local Government.

### **TASK FORCE ACTIVITY**

Since its organization in August 1998, the Task Force has had thirteen meetings.

At the first meeting in August 1998, the Task Force discussed the results of a survey which the chairmen had staff circulate to the Task Force members soliciting their suggestions for potential research topics for the group. Some of the topics suggested included finding better ways for local governments to coordinate their activities; the possible consolidation of some local government entities; the generation of more information on the operation and function of special districts; review of local government finance issues; pay raises for county officials; ethics codes; annexation; collective bargaining; and sovereign immunity.

The Task Force met for the second time in Fort Mitchell, Kentucky, in conjunction with the annual meeting of the Kentucky League of Cities (KLC). At this time, the members listened to a presentation given by KLC officials and staff concerning the organization, structure, and function of cities, urban-counties, and charter counties in the Commonwealth. The League also expressed those issues of most concern to their member cities, including: local leadership-home rule; the healthy growth of cities; more flexibility and options for revenue generation at the local level; economic development; jobs; downtown revitalization; water; telecommunications; preservation of farmland; and revenue sharing.

For their November meeting the Task Force traveled to Louisville where they held a joint meeting with the Interim Joint Committee on Local Government. The meeting was scheduled to coincide with the annual meeting of the Kentucky Association of Counties, which was meeting in the same location. The primary speaker for this meeting was Kentucky's state historian, who gave an overview of the formation of Kentucky's county governments. Also, the Commissioner of the Department for Local Government presented information concerning the Department's interpretation and actions relating to recently enacted legislation that seems to require the adoption of personal property taxes by local governments. The Commissioner said that at this time, the agency does not intend to penalize those cities who have not levied a personal property tax. It was noted that personal property tax levies may be an issue which should be discussed by the Task Force and Interim Committee during the interim.

The Task Force next met in March of 1999 in Lexington in conjunction with the annual meeting of the Kentucky Council of Area Development Districts. At that meeting the members were given a presentation explaining the role of the area development districts (ADDs) with local governments. It was stressed to the members that the ADDs serve as a common ground for all their members, and they provide a regional partnership for local governments which allows them to take advantage of an economy of scales that they would not have alone.

On March 23, the Task Force heard from the Director of the State Data Center regarding the population trends in the Commonwealth. He said that perception is everything in population data analysis. He noted that unfortunately the perception of too many small governmental units is not always a good perception to project to the world. He noted that governmental consolidation sometimes projects a positive image, which in turn stimulates interest in business development in an area, but it is no guarantee. He said that in Kentucky, as in other states, the real growth is occurring along interstate highways, and those areas away from them are losing population and the tax base that provides their services.

At their May meeting, the Task Force heard a presentation by the Commissioner of the Department of Job Development in the Economic Development Cabinet. He told the members that his Department is responsible for recruiting new businesses to the state and for maintaining accurate development information about state resources for development purposes. He told the Task Force that there had already been a tremendous amount of cooperation between counties in order to establish the Local Government Economic Development Fund Regional Industrial Park Program, which is currently under way. He said that interlocal agreements had been used to create the partnerships necessary for the project and that a business does look at the size of a community and the availability of certain services before deciding to locate in a particular community. At this meeting members also reviewed a staff report on interlocal agreements.

At their June and August meetings, the Task Force had working meetings to draft legislation relating to the consolidation of counties. The co-chair also noted that because of time limitations they had decided to limit the scope of the Task Force's legislative proposals to counties. 00 BR 379, which has been approved by the Task Force, is the resulting proposal on county consolidation.

The next four meetings, in south central and western Kentucky, were a series of joint public hearings with the Interim Joint Committee on Local Government. The first public hearings were held on September 27-29 in London (Laurel County), McKee (Jackson County), Corbin (Whitley County), and Mt. Vernon (Rockcastle County). The second round of hearings was held on October 6-8 in Mayfield (Graves County) and Paducah (McCracken County). At these hearings members heard testimony from state and local officials, citizens, and special interest groups as to the possibility of and need for consolidation of counties in the Commonwealth.

As a result of information received and comments made at the public hearings, the Task Force decided to draft legislation calling for a constitutional amendment and companion legislation to make it easier for counties to strike-off territory. They also decided to draft legislation placing the authority to review interlocal agreements in the Department for Local Government rather than in the Office of the Attorney General. Finally, they requested and approved a resolution to request that the Attorney General respond to the requests of local governments in a more timely manner.

At their meeting on October 26, the Task Force had another working meeting to review and put the finishing touches on the legislative proposals which they had requested.

At their final meeting on November 16, the Task Force gave final approval to the following legislative proposals:

- |              |   |
|--------------|---|
| 00 RS BR 379 | An Act relating to the consolidation of counties and making an appropriation therefor.                            |
| 00 RS BR 982 | An Act relating to the striking-off of county territory.  |
| 00 RS BR 983 | An Act relating to interlocal agreements between cities, counties, and urban-county governments.                  |
| 00 RS BR 987 | An Act proposing an amendment to Section 64 of the Constitution of Kentucky relative to the division of counties. |



**REPORT OF THE 1998-99  
SUBCOMMITTEE ON  
MILITARY AND DEFENSE-RELATED ISSUES**

**Sen. Ernesto Scorsone, Co-Chair**

**Rep. Mike Weaver, Co-Chair**

Sen. Virgil Moore  
Sen. Joey Pendleton  
Sen. Albert Robinson  
Sen. Elizabeth Tori  
Sen. Ed Worley  
Rep. John Adams  
Rep. Jim Bruce

Rep. Barbara Colter  
Rep. Jodie Haydon  
Rep. Jimmie Lee  
Rep. Dottie Sims  
Rep. Mark Treesh  
Rep. Tommy Turner  
Rep. Brent Yonts

LRC Staff: Mike Greenwell and Wilda Bond

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## **SUBCOMMITTEE ON MILITARY AND DEFENSE-RELATED ISSUES**

**JURISDICTION:** All matters pertaining to the military and defense-related issues in the Commonwealth; to investigate and report on issues relating to the direct and indirect impact of military expenditures on state and local economic development, to investigate and report on defense issues relating to local and state tax revenues; to investigate and report the impact of defense issues on local and state transportation issues and plans.

### **SUBCOMMITTEE ACTIVITY**

During the 1998-1999 Interim, the Subcommittee on Military and Defense-Related Issues held four meetings prior to December 1, 1999.

The Subcommittee on Military and Defense-Related Issues began collecting information on the needs of Kentucky's military installations and the impact of these installations on the economy of the state. It also met with both private and public groups interested in promotion of defense contracts and other defense issues in the Commonwealth.

The August 3, 1999, meeting of the subcommittee involved a presentation by the CORE committee, a local organization involved in developing Fort Knox. The CORE committee discussed the needs of and prospects for Fort Knox. The subcommittee learned of the need for a non-partisan, integrated local-state-national effort to promote the interests of Fort Knox. Following the meeting the subcommittee accepted an invitation from the US Army commanding general to witness a Combined Arms Live Fire Exercise (CALFEX) presented by the 1<sup>st</sup> and 16<sup>th</sup> Cavalry, conducted in support of the US Military Academy Cadets.

The August 25, 1999, meeting of the Subcommittee for Military and Defense-Related Issues began with a presentation by the Kentucky Commission for Military Affairs (KCMA). The executive director of the KCMA outlined the national environment in which Kentucky's military posts and contractors are and will be operating. The KCMA also outlined their mission and accomplishments to date. The executive director reminded the subcommittee of the need for close Legislative-Executive Branch cooperation to further Kentucky's military efforts.

The September 29, 1999, meeting, held at the Wendell Ford National Guard Training Center, Greenville, Kentucky, began with an examination of a private firm involved in defense procurement and how such firms effect the local and state economy. Kentucky's Adjutant General briefed the subcommittee on the roles, missions, and capabilities of the Kentucky National Guard and Kentucky Air National Guard. The

committee learned of the needs and impact of military reserve forces, as well as the active forces of the military in the Commonwealth.

The November 24, 1999, subcommittee meeting was held at Ft. Campbell Army Base in Christian County. The subcommittee discussed the impact, needs, and prospects for Fort Campbell and the 101st Air Assault Division. Following briefings by the Commanding General and his staff, the subcommittee took a tour of the base.

The subcommittee stated its intentions to contact the Kentucky Congressional Delegation to address the subcommittee's concerns for military preparedness in the country, the future of military installations in Kentucky, and their economic impact on the communities that support them and the economy of Kentucky.

The Subcommittee on Military and Defense-Related Issues met once jointly during the 1998 Interim on August 2, with the Interim Joint Committee on Seniors, Military Affairs and Public Safety, at the Fort Knox Reservation. The Chair announced that the Seniors, Military Affairs and Public Safety committee would assume the responsibility of the subcommittee and that it would be terminated in the 2000 Regular Session of the General Assembly.

The committee heard reports from commanding officers on the mission, operation, and condition of the Ft. Knox Armor Center and the future of the "Distance Learning" program at Ft. Knox. This training program utilizes telecommunications and satellites' optic link technology for long distance officer promotional training. The committee also heard an overview of the Selective Service System by the State Director, informing the committee of the present congressional course of defunding or disbanding the SSS. Following the joint meeting, the members accepted an invitation from the commanding general to witness a Combined Arms Live Fire Exercise (CALFEX) presented by the 1<sup>st</sup> and 16<sup>th</sup> Cavalry conducted in support of the US Military Academy Cadets.

**REPORT OF THE 1998-99  
SPECIAL TASK FORCE ON  
PARENTING AND CHILD CUSTODY**

**Sen. David Karem, Co-Chair  
Rep. Eleanor Jordan, Co-Chair**

Judge Jerry Bowles  
Rep. Tom Burch  
Ms. Sherry Currens  
Rep. Susan Johns  
Justice James E. Keller  
Rep. Jimmie Lee  
Ms. Debra Miller  
Ms. Dee Pregliasco  
Dr. Peter Schilling

Dr. V. Gayle Spears  
Judge Patricia Summe  
Judge Mason Trenaman  
Rep. John Vincent  
Rep. Susan Westrom  
Sen. Jack Westwood  
Ms. Jo Ann Wise  
Ms. Krista Wood

LRC STAFF: Scott Varland, Dee Ann Wenk, Hank Marks, and Dawn Groves

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## **SPECIAL TASK FORCE ON PARENTING AND CHILD CUSTODY**

**JURISDICTION:** The Special Task Force on Parenting and Child Custody was established through 98 HB 319. That bill charged the Special Task Force with studying custody, visitation, and related matters and recommending changes in these areas that are in the best interests of the child.

**MEMBERSHIP:** The 19 members consisted of : eight legislators, four judges, two attorneys, two domestic violence experts, two psychologists, and a children's advocate.

### **TASK FORCE ACTIVITY**

During the 1998-1999 interim, the Special Task Force on Parenting and Child Custody held 13 meetings prior to November 1, 1999.

At its first meeting, in September 1998, the Special Task Force received background information on child custody and visitation. A Kentucky attorney spoke on the past, present, and future of parenting and child custody in Kentucky. LRC staff presented various approaches to parenting and child custody from around the nation. A representative of the Cabinet for Families and Children explained how the Commonwealth is using a federal grant to establish and administer programs to support and facilitate noncustodial parents' access to and visitation with their children.

At the October meeting, the Special Task Force adopted a meeting plan for the exploration of major parenting and child custody issues. The Special Task Force also received testimony summarizing major child custody legislation introduced during the 1998 Session of the Kentucky General Assembly: 98 SB 386 (AN ACT relating to the establishment of a parenting plan for parenting functions and responsibilities.) as introduced and as a Senate Committee Substitute which passed the Senate; 98 SB 290 (AN ACT relating to custody of children.) as introduced; 98 HB 544 (AN ACT relating to the judicial branch.) as enacted into law; and 98 SB 205 (AN ACT relating to child custody.) as enacted into law.

In November, the Special Task Force discussed parenting plans, which are documents governing most aspects of child custody. Attorneys and a judge testified on the merits of requiring the parents and a court to develop a temporary parenting plan immediately after the filing of a divorce petition and a permanent parenting plan as a part of the divorce decree.

During the December meeting, an attorney, a mediator, and a judge from Jefferson County discussed the mandatory mediation program in Jefferson County. A judge and a mediator from Fayette County described the mediation program in place in Fayette County. Two judges from rural Kentucky testified about their experience with mediation. They said that they had employed mediation to deal with tort litigation such as personal

injury cases. They were interested in using mediation in child custody cases, but they would need additional resources to create child custody mediation programs in their counties.

The Special Task Force heard citizen testimony during the January 1999, meeting. The meeting began with testimony from two representatives of Fathers On Rights for Custody Equality (FORCE) and two representatives from Parents And Children for Equality (PACE). Then eight speakers described their personal experiences regarding custody of their children following divorce.

During the February meeting, the Special Task Force learned about child custody legal standards in Kentucky and how they might be improved. The Special Task Force also learned about the psychological needs of parents and children during and after divorce.

In March, by means of video conference, the Special Task Force received testimony from an attorney and a researcher located in the State of Washington. They testified on the Washington approach to parenting and child custody, which emphasizes the use of parenting plans. Next, the Special Task Force heard from two attorneys and a representative of the Auditor of Public Accounts. They spoke on the role of guardians ad litem in custody and visitation cases.

The April meeting covered a wide range of subjects. First, the Special Task Force received testimony from three domestic violence experts on the impact that domestic violence has on custody and visitation. Second, a Special Task Force member discussed relocation of a parent following divorce. He provided insights on when notice of relocation should be required and the proper elements of the notice. Another Special Task Force member spoke on methods for enforcing custody when the noncustodial parent interferes with custody and methods for enforcing visitation when the custodial parent interferes with visitation. Third, the Special Task Force received citizen testimony from one speaker.

The May meeting was devoted, for the most part, to the need to provide education on child custody and visitation. The meeting began with a discussion of educating parents and children about custody and visitation. Court employees described the education programs already in place in Jefferson County, Fayette County, and other counties. Employees of the Administrative Office of the Courts described the education of judges and judicial staffs about custody and visitation. The Chair-Elect of the Family Law Section, Kentucky Bar Association, gave his views on educating attorneys. The last education item on the agenda consisted a University of Kentucky law professor describing current legal education in the area of child custody and visitation and how it might be improved. The meeting concluded with testimony from two child abuse experts on the impact of child abuse on custody and visitation.

In June, the Special Task Force began arriving at recommendations. In July, the Special Task Force continued to finalize its recommendations. In September, the Special Task Force finalized its recommendations and began discussing a Special Task Force bill draft. In October, the Special Task Force split its bill draft and finalized both drafts.



**REPORT OF THE 1998-99  
COMMISSION ON POVERTY**

**Sen. Gerald Neal, Co-Chair  
Rep. Jim Wayne<sup>1</sup>, Co-Chair**

Rep. Tom Burch	Maurice Clark Alsop
Rep. Barbara Colter	Mary Bailey
Rep. Jesse Crenshaw	Sandra Barlow
Rep. Freed Curd <sup>2</sup>	Judge Bill Clouse
Rep. Paul Mason <sup>3</sup>	Arnold Gaither
Sen. Joey Pendleton	Ronald Lee Logsdon
Sen. Richard Roeding <sup>4</sup>	Clarence D. Noland, Jr.
Sen. Dan Seum	Laura Roberts
Sen. Robert Stivers <sup>5</sup>	
Sen. Elizabeth Tori	
Rep. Susan Westrom <sup>6</sup>	

<sup>1</sup>Replaced Rep. Freed Curd

<sup>2</sup>Legislative term expired December 31, 1998

<sup>3</sup>Died during interim

<sup>4</sup>Replaced Sen. Robert Stivers

<sup>5</sup>Resigned during interim

<sup>6</sup>Replaced Rep. Paul Mason

LRC STAFF: Gilmore Dutton, Alice Hobson, Stewart Willis, Emily Fryer, and Rose Mack

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## COMMISSION ON POVERTY

**JURISDICTION:** matters pertaining to the incidence of poverty in Kentucky; the demographics of the poor in Kentucky and a description of the communities in which they live; the causes of poverty; state and federal programs intended to mitigate the effects of poverty and eliminate the causes of poverty; and state programs designed to promote public awareness of poverty in Kentucky and initiate dialogues between citizens and policymakers.

The prescribed membership of the Commission is ten legislative and eleven at-large members appointed by the Speaker of the House of Representatives and the President of the Senate.

## COMMISSION ACTIVITY

The Commission met eleven times; the first meeting was held on September 21, 1998, and the eleventh meeting on October 15, 1999. The Commission also held a two-day retreat at the Capital Plaza Holiday Inn in Frankfort to bring the Commission up to date on poverty incidence and demographic data, to discuss the impact of poverty on Kentucky's social and economic structure, and to prioritize the development of issues during the remainder of the interim.

The initial meeting of the Commission on Poverty saw an inquiry into the status of Kentucky's Children's Health Insurance Program (KCHIP), and a discussion with the Transit Authority of River City (TARC) regarding its proposal for a light rail system for Louisville and Jefferson County. These were two of several issues or programs that were dealt with at multiple meetings or were given special emphasis by the Commission. The others included:

- Kentucky's Transitional Assistance Program (K-TAP) and University of Louisville's Urban Studies Institute's analysis of the program's results;
- reimbursement rates for childcare fees;
- an earned income tax credit for Kentucky (EITC)'
- the status of literacy in Kentucky and programs designed to combat illiteracy; and
- rural versus urban poverty.

### **Kentucky's Children's Health Insurance Program**

Kentucky's Children's Health Insurance Program was created by the 1998 Session of the General Assembly with the passage of Senate Bill 128. The act was an outgrowth of the Balanced Budget Act of 1997, which contained Title XXI, the Federal Children's

Health Insurance Program. Title XXI established a mechanism for states to provide health insurance coverage to uninsured children.

The program provides funds—\$50 million to Kentucky for the first year of operation—to insure children for health benefits whose parents' incomes fall between 100 percent and 200 percent of the poverty level. The program serves as an extension of Medicaid, which covers children living in families whose income is at the 100 percent or less level of poverty. The Commission was concerned about the timeliness of the implementation of Senate Bill 128, and sought assurance that a comprehensive outreach program was included in the general program design.

### **Transit Authority of River City**

The Commission's interest in the proposed light rail system for Louisville and Jefferson County involved the routing planned for the system. The Commission wanted to insure that servicing the city's and county's poor neighborhoods would be a priority in planning for the system's routes. The Commission was assured that TARC considered transporting citizens living within low-income neighborhoods to their jobs a major objective of the system, as exemplified by the fact that the first of four initiatives recently adopted by TARC was the "elimination of transportation barriers to employment by providing service that connects people to jobs."

As a result of its discussions with TARC, and the disclosure of that agency's commitment to provide home-to-job transportation for low-income residents of its service area, the Commission agreed to send a letter of endorsement to the Federal Transit Administration recommending TARC's application for a grant available through the Transportation Equity Act for the 21<sup>st</sup> Century. TARC's plan was to utilize the funds to expand four existing programs—Nia Night Owl Service, Work Trip Opportunities for People with Disabilities, United Parcel Service Job Transportation, and Bluegrass Industrial Park Service Job Transportation—and to introduce a suburban/urban connector service which would provide transportation from three under-served service areas to employment centers. The Commission was pleased to subsequently receive notification that TARC's application had been approved by the Federal Transit Administration.

### **Kentucky's Transitional Assistance Program and Evaluation by the Urban Studies Institute**

Kentucky's Transitional Assistance Program was a response to the federal Temporary Assistance for Needy Families Act (TANF) passed in July 1996, and replaced the longstanding Aid to Families with Dependent Children Program. TANF legislation requires that adults receiving cash assistance engage in work activities once the parent or guardian has received benefits for 24 months. Adults who choose not to participate in a qualifying activity, without good cause, are sanctioned by a pro rata reduction of their K-TAP check. Adults who receive a reduction in benefits for at least six months are subject to discontinuance.

The Commission was interested in the state's plans to ensure that recipient families were made aware of the requirement regarding participation in a work activity at 24 months to prevent discontinuance of the family's benefits. The Commission was told that all families facing a sanction were sent a written notice 60 to 90 days prior to the cutoff date reminding them of the work requirements and ramifications of noncompliance, and that 30 days prior to cutoff each family would be personally contacted regarding the program requirements.

The Commission was also interested in the University of Louisville's Urban Studies Institute's progress in developing a research and evaluation data base capable of monitoring all aspects of welfare reform taking place in the Commonwealth. The Commission was told that the project includes an annual survey of discontinued cases, a panel study that initially tracks 500 families and then adds 200 families each year for a total of five years, and the development of an administrative data base which combines six major data files used by various agencies in state government. The data base is designed to serve as a monitoring system capable of tracking active K-TAP cases and discontinued K-TAP cases as they move from one program phase to another.

### **Childcare Reimbursement Rates**

The Commission received testimony to the effect that reimbursement rates for childcare expenses incurred by low-income families were creating an inequity in the quality of childcare throughout the state. The Commission was told that because Kentucky continues to follow federal guidelines no longer in effect, which allowed reimbursement rates to be set at the 75<sup>th</sup> percentile of fees currently charged by childcare providers, an urban versus rural disparity in reimbursement rates is created. The allegation was supported by the state's proposed childcare reimbursement rates for fiscal years 2000 and 2001, which reflected as much as a \$5 per day differential between the most rural and the most urban areas of the state, with the urban areas scheduled to receive the higher payments. Advocates for reimbursement rate reform argued for a uniform statewide reimbursement rate.

The Commission responded to the proponents of a one-rate scheme by adopting a resolution that urged "the Cabinet for Families and Children to continue over the next two or three bienniums to (1) enhance quality childcare measures statewide and (2) further mitigate as appropriate any unforeseen adverse impacts among current higher reimbursement-rate providers and recipients, until statewide equitableness in the Childcare Assistance Program's financial support is achieved."

### **A State Earned Income Tax Credit for Kentucky**

The Commission received testimony from advocates of tax reform that Kentucky's income tax on working-poor families is the highest or second highest, depending upon size of family, in the nation. For families of four with incomes at the poverty line, Kentucky

levies the highest income tax in the nation; for families of three with incomes at the poverty benchmark, or with minimum wage earnings, Kentucky's income tax is the second highest in the nation. The high tax rating for Kentucky's income tax burden on low-income families is a result of lower standard deductions, smaller personal credits, and lower income credits offered in Kentucky than in the other 49 states. The proponents of a state EITC argue that not only should the credit be set at a level calculated to eliminate the individual income tax for the qualified taxpayer, but at a level that would also provide a payment to qualified taxpayers based upon family income and family size. The effects of both provisions, say the state EITC proponents, is to reduce child poverty, complement welfare reform, and offset the state income tax burden. The Commission reviewed a bill prefiled by the Commission's Co-Chair which would establish a refundable earned income tax credit for Kentucky.

### **The Status of Literacy in Kentucky and Programs Designed to Combat Illiteracy**

The Commission's concern with the level of literacy, or, in the alternative, the level of illiteracy, was an outgrowth of its inquiry into Kentucky's ingredients for successful economic development. One of the major impediments to recruitment of industry in Kentucky, the Commission was told, is the absence of a pool of qualified workers.

Upon further inquiry, the Commission learned that:

- Forty percent of Kentuckians function at the lowest two levels of literacy, as defined by the Kentucky Adult Literacy Survey.
- Three hundred and forty thousand Kentuckians function at the lowest literacy level—Literacy Level 1. These citizens cannot read to their children, cannot read the newspaper, cannot read the directions on a prescription bottle, and cannot read instructions for performing a job.
- Kentucky is last in the nation in percentage of adults who have a high school diploma. Almost 900,000 adults in Kentucky, about one in three of the total adult population, have not earned a high school degree.
- Nearly 50 percent of all adults in the lowest literacy levels, about 20 percent of Kentucky's population, live in poverty.

The Commission heard testimony that Kentucky began a strong emphasis on adult education in 1990 with the creation of the Workforce Development Cabinet. The effort continued in 1993 with the integration of the Kentucky Literacy Commission and the Office of Adult Education to form the Department for Adult Education and Literacy in the Workforce Development Cabinet. Two major challenges accepted by the Workforce Development Cabinet in serving the adult population in Kentucky is service to the unemployed who need to improve their basic skills, and service to those who are in the workplace, but underemployed, with a need to improve their basic skills.

The Commission was told that traditionally the models for adult learning centers have been within the local school districts, in community colleges and technical schools, and community-based organizations. The centers are designed for those in need of basic skills to utilize during normal hours of operation. However, many of the centers' potential clients are unable to attend during the working day.

Adult education strategies, including on-site workplace programs and distance learning (television) programs, gave ample evidence of a substantial commitment to address adult and family literacy in Kentucky. An obvious conclusion was that the key to successful reduction of the state's level of illiteracy was motivating those in need of literacy programs and designing programs that were accessible, both in terms of time and location, to the potential clients.

### **Urban Versus Rural Poverty**

The distinction between the demographics of urban and rural poverty and distinctive approaches to addressing each, was the mandated major focus of the Commission's 1998-99 activity. The Commission's findings will be reported as an addendum to this report.

Other topics taken up by the Commission during the interim included:

- the implications for Kentucky resulting from the passage of the Workforce Investment Act of 1998 and the passage of the Skills Training Investment Act (1998 House Bill 280);
- Kentucky's new childcare brokerage system;
- Jefferson County's Welfare-to-Work Program;
- Jefferson County Public Schools' recommendation that the deadline for Kentucky's public schools to reach the statewide test score goal of 100 be extended beyond the year 2014;
- strategies for recruiting industry in Kentucky's rural areas;
- the role of a local Workforce Investment Board in developing a marketable workforce; and
- a strategy to enhance science and technology in Kentucky developed by the Kentucky Science and Technology Corporation;

### **Commission Recommendations**

The Commission on Poverty recommends the following action for consideration by the 2000 Session of the General Assembly:

- (1) revision of the state individual income tax code to eliminate the taxation of families with up to four members and a family income at or below the poverty level;

- (2) allotment of all, or as much as can be negotiated, unclaimed prize money from the state lottery to the Affordable Housing Trust Fund on a permanent basis;
- (3) adoption of state incentives for local governments who utilize financial and technical assistance from the state to establish or expand local land use planning programs;
- (4) development of more equitable, statewide childcare reimbursement rates, and adoption of a late shift rate differential to provide an incentive for childcare centers to provide after-hour childcare;
- (5) full funding of the Family Resource and Youth Service Center program, with center eligibility based upon the percentage of children qualifying for free or reduced meals, rather than just free meals;
- (6) full funding of programs designed to increase the level of literacy among the state's illiterate population; and
- (7) reauthorization of the Commission on Poverty for the 2000-01 interim.

**REPORT OF THE 1998-99  
SPECIAL SUBCOMMITTEE ON TAX POLICY ISSUES**

**Sen. Benny Ray Bailey, Co-Chair  
Rep. Harry Moberly, Jr., Co-Chair**

Rep. Jim Callahan  
Rep. Larry Clark  
Rep. Danny Ford  
Sen. Glenn Freeman  
Rep. Jody Richards

Sen. Richie Sanders  
Sen. Larry Saunders  
Rep. Mark Treesh  
Sen. David Williams

LRC STAFF: Terry K. Jones, John Scott, Lou Pierce, and Kathy King

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



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

**JURISDICTION:** The Subcommittee on Tax Policy Issues was created by the Legislative Research Commission to examine Kentucky's current tax structure and determine what tax proposals should be made to the 2000 General Assembly that will be of most benefit to Kentucky and its citizens.

### **SUBCOMMITTEE ACTIVITY**

The Subcommittee on Tax Policy Issues has met seven times during the interim as of November 3, 1999, and has been approved by the Legislative Research Commission to hold additional meetings to prepare for the 2000 Regular Session of the General Assembly.

At its first meeting, held on April 26, 1999, the Subcommittee reviewed a study done in 1995 by the Kentucky Commission on Tax Policy. Members of the Subcommittee said that Kentucky's economy has changed since that study was completed, and new complex tax issues have emerged that must be dealt with, including internet sales, telecommunications, and the taxation of public service companies that provide utility services.

The Subcommittee's second meeting was held on May 12, 1999. At this meeting, the Subcommittee received an explanation from the sponsor of a prefiled tax proposal, 2000 BR 98, relating to an Earned Income Tax Credit (EITC) for the working poor. The Revenue Cabinet presented historical background on the motor vehicle property tax system and updated members on changes made in the property tax on motor vehicles and how changes affect school districts, local governments, and state government. The Finance Cabinet discussed Kentucky's tax burden and how it compares nationally and with its surrounding states.

The Subcommittee held its third meeting on June 2, 1999. The Revenue Cabinet reported on Kentucky's fuel tax rates and how Kentucky's rates compare with the nation and surrounding states. The Transportation Cabinet updated members on Kentucky's highway needs. The Transportation Cabinet also advised members of a Road Fund deficit that occurred when Congress unexpectedly funded projects that were not in the Six-Year Road Plan and changed the level of funding for some projects that were in the plan resulting in an unanticipated, unbalanced Six-Year Road Plan.

The fourth meeting of the Subcommittee was held on August 4, 1999. The Co-Chair of the Task Force on Utility Tax Policy and a representative from the Finance Cabinet, who staffs that Task Force, updated members on the progress of the Task Force, created by House Joint Resolution 89, enacted by the 1998 General Assembly to study the taxation of public service companies that provide utility services. New technologies and emerging competitive environments are creating new utility services and new types of public utility service providers, including marketers and those who resell services.

Different utility providers are being taxed differently, causing the current tax structure to create competitive advantages and disadvantages likely to have a significant impact on state and local tax revenues.

At its fifth meeting on September 1, 1999, the Subcommittee heard from a nationally recognized research and education organization whose key role is the study of state tax issues and state tax laws. The organization published a study in 1996 entitled "Who Pays? A Distributional Analysis of the Tax System in all 50 States." Discussion centered around Kentucky's current tax structure and alternatives for improvement. The Kentucky League of Cities addressed the Subcommittee about tax policy and tax structure and how it affects local communities. Local governments provide a wide variety of services that are dependent on a solid tax base.

The sixth meeting was held on October 6, 1999, when the Subcommittee heard a presentation on "remote" sales, which includes internet sales, catalog sales, telephone sales, and television sales. It is believed that this fast-growing market will have a serious impact on tax bases for states and many local governments. There are also legal and technical issues dealing with remote sales that must be dealt with involving other states, which have their own individual state tax law and each state may tax different things.

The Subcommittee held its seventh meeting on November 3, 1999. At this meeting, members received the FY 2000-2002 Tax Expenditure Analysis Report, which is prepared by the Finance and Administration Cabinet. A representative from the cabinet explained that the report has a new format, which is easier to read and has more information than previous versions. The subcommittee also received the preliminary findings of a study being done for the Subcommittee on Utility Tax Policy by the Barents Group. The study is an update of a 1995 study conducted for the Kentucky Commission on Tax Policy. The study analyzes Kentucky's business tax structure and competitiveness with other states. It also analyzes Kentucky's household taxes and how these taxes compare with surrounding states. The subcommittee also received an explanation from the sponsor of a bill draft that deals with tax relief for low income families.

The Subcommittee is scheduled to meet on December 1. At this meeting, the Subcommittee will hear from a telecommunications executive on the taxation of telecommunication services provided by municipal utilities. Members will also review hearings held by the Subcommittee on Tax Policy Issues.

**REPORT OF THE 1998-99  
COMMONWEALTH TASK FORCE ON TEACHER QUALITY**

**Sen. David Karem, Co-Chair  
Rep. Harry S. Moberly, Co-Chair**

Mr. Bob Babbage  
Dr. Gary Cox  
Dr. Gordon Davies  
Dr. Ed Ford  
Ms. Judith Gambill  
Ms. Helen Mountjoy  
Rep. Joe Barrows  
Rep. Barbara Colter

Rep. Jon Draud  
Rep. Charles Miller  
Rep. Frank Rasche  
Sen. Lindy Casebier  
Sen. Robert L. "Bob" Jackson  
Sen. Vernie McGaha  
Sen. Gerald Neal  
Sen. Robert Stivers

LRC Staff: Audrey Carr, Sandra Deaton, Jonathan Lowe, Lora Hawkins

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## COMMONWEALTH TASK FORCE ON TEACHER QUALITY

**JURISDICTION:** To determine how teachers may be better educated and students better served and to report its findings to the Governor and Legislative Research Commission by November 15, 1999.

### TASK FORCE ACTIVITY

The Task Force began its work on February 26, 1999, and adopted the following mission statement: *“To design a system of teacher preparation and development that assures a well-prepared teaching force to enable all students to meet Kentucky’s standards for student achievement.”* The Task Force also agreed that in order to carry out this mission, the system must provide:

- Dynamic statewide leadership and governance;
- Sufficient resources and staff for quality state-supported certification activities;
- Recruitment and retention of a talented, diverse teaching force;
- Rigorous preparation for prospective teachers in subject matter and teaching methodologies;
- Intensive field experiences for prospective teachers;
- Adequate infrastructures to support teacher preparation programs;
- Accountable teacher preparation programs;
- Quality professional development for all teachers; and
- Attractive compensation, benefits, and working conditions for teachers.

The Task Force met nine times before November 1, 1999. Information and research data were gathered from a wide variety of sources. Formal presentations were heard from staff of the National Commission on Teaching and America’s Future; staff from Recruiting New Teachers, Inc.; staff from the Southern Regional Education Board; staff from the Policy Analysis Center for Kentucky Education; the Education Professional Standards Board; deans, presidents, or faculty from all the public postsecondary institutions; representatives from several private colleges that prepare teachers; students enrolled in public schools; teacher interns; prospective teachers; supervising teachers; school administrators; staff from education cooperatives; Governor’s Scholars; the Prichard Committee; representatives from educational professional organizations, including the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Education Association, the Kentucky Counseling Association, the Kentucky Congress of Parents and Teachers, the Kentucky Association of Colleges of Teacher Education; the Partnership for Kentucky Schools; the Kentucky Department of Education; and other interested parties. The public was kept apprised of the ongoing work of the Task Force, and comments were solicited on the draft report through the Legislative Research Commission’s homepage.

## **Findings**

The Task Force identified several key issues as follows:

### **Teacher Supply and Demand**

Across the nation, some states are seeing dramatic increases in school enrollments, thereby exacerbating the demand for teachers. Projected demographics for Kentucky do not indicate high growth in student population, but it is difficult to predict the impact of future economic development.

Kentucky currently has teacher shortages in areas, such as math, science, foreign language, and specialties for teaching children with disabilities. Districts in some regions report difficulties in recruiting teachers in general.

Only four percent of Kentucky certified employees are minorities. With increased support, Kentucky has dramatically increased the number of minority students enrolled in teacher education programs, but more needs to be done.

The Kentucky teacher scholarship program, a loan program for qualified Kentucky students pursuing certification in teacher shortage areas at participating Kentucky colleges has helped alleviate some problems. Approximately 60% of the recipients are currently teaching or have canceled their loans with teaching service.

Teacher demand also is affected by teacher retirement. According to the Kentucky Teachers' Retirement System, approximately one-fourth of Kentucky's teachers will be able to retire in three years. Finding their replacements is an important priority.

While the number of currently certified persons and the number of students in teacher preparation programs appear to exceed demand, data on how many of these persons actually seek employment as teachers is sparse. In addition, a number of teachers exit teaching within their first three years.

### **Teacher Education and Preparation**

Currently 26 Kentucky institutions are preparing teachers. All have revised their programs to meet performance-based requirements of the Education Professional Standards Board, but program assessment remains problematic.

There is considerable variation among programs, and the quality of preparation across the state remains uneven. Additionally, a lack of curriculum alignment between college, elementary, middle, and secondary schools appears widespread. Ensuring that all teacher preparation programs perform at a high level is an ongoing concern.

## **Alternative Teacher Preparation and Certification**

The teaching profession can be enhanced by aggressive recruitment of highly talented individuals who did not pursue a teacher preparation program.

## **Teacher Compensation and Benefits**

While Kentucky currently ranks in the middle of the nation for average teacher salaries, continued efforts to improve teachers' base salaries are needed to remain competitive with surrounding states and to move up in the national rankings. In addition, compensation and benefits beyond the maintenance of a base salary are needed, such as recognizing and rewarding teachers who stay in the classroom and perform at high levels, or those who assume additional duties or hard-to-fill assignments.

## **Teacher Development**

Teacher preparation programs, teacher assessments, and student teaching experiences are designed to meet standards for entry into teaching, but cannot provide for all of the skill development teachers need to best serve students. Teachers must have intensive support during the first years of practice to ensure that students are receiving a high level of instruction, as well as to increase the number of teachers who experience early success and satisfaction.

It is important that state policy support the implementation of long-term, integrated models of professional development that address both subject matter and teaching practices, including on-site professional development model programs, use of distance learning technologies, teacher mentoring or partnering programs, and teacher academies with meaningful follow-up and evaluation.

## **Student Achievement**

Kentucky's education reform requires that teachers have skills, knowledge, and desire to teach all children and to help them achieve at high levels. Providing a nurturing environment in which Kentucky teachers can continue to learn, develop new skills, and adapt to change is an ongoing challenge, but it must be done if teachers can likewise nurture and challenge their students to achieve the necessary learning.

## **Public Opinion**

In a recent opinion poll by Recruiting New Teachers, Inc., an "overwhelming majority of the American public indicated the quality of teaching was key to improving public education." At the same time, the findings show that the public appreciates the complexity and breadth of knowledge and skills required to be a fully qualified teacher and recognizes the negative student and social behaviors that public school teachers face, such as school violence, student drinking and drug use, and lack of parental guidance. Further,

the findings demonstrate consensus about the need for investment in teacher learning by investing in extra time during the school year and the school day for professional development; the need to provide stronger mentoring and support by able veterans; and the importance of teacher training institutions in preparing the next generation of teachers.

At the September 2, 1999 meeting the co-chairs presented a draft report for study by the Task Force. On October 26, 1999 meeting the Task Force adopted several changes to the initial report including the following guiding principles and recommendations, which are organized around issues related to teacher preparation; non-traditional preparation paths; new teachers; veteran teachers; salary, compensation, and career enhancements for teachers; and leadership. Cross-cutting principles are identified that cut across all recommendations and guiding principles related to specific issues.

## **Guiding Principles and Recommendations**

### **Cross-Cutting Principles**

- Improving the quality of teaching is directly correlated to improving student achievement.
- Stronger partnerships must be forged among the administrators and faculties of departments and colleges within each teacher preparation institution and among the teacher preparation institutions; elementary, middle, and secondary schools; and school districts.
- Informed policy decision making regarding teacher development is dependent upon the availability of data derived through a comprehensive, statewide data and information system.
- Distance learning technologies, including the Kentucky Commonwealth Virtual University, are viable tools to enhance the recruitment, preparation, and professional development of a highly skilled, diverse teaching corps.
- Clear and understandable communication to the public of the goals, expectations, requirements, and procedures for teacher preparation and certification is essential for garnering trust and support for the teaching profession.

### **Teacher Preparation Guiding Principles**

- Teacher preparation is the responsibility of an entire university or college, not just the college or department of education.
- A system of accountability and incentives should be provided to ensure that teacher education institutions and their local school district partners produce high quality teachers.
- Universities and colleges must provide students with challenging subject matter content and relevant, high quality field experiences, aligned with elementary and secondary education core content.

- Postsecondary institutions that prepare teachers should model good teaching, classroom practices, and professional practices that nurture and challenge prospective teachers and that mirror what teachers are expected to do.

### **Teacher Preparation Recommendations**

- Require the Education Professional Standards Board to assure current program standards for teacher preparation adequately address: alignment of programs with the state's core curriculum; research-based classroom practices; emphasis on subject matter competency as well as effective teaching methodologies to meet diverse educational needs of all students; consistent standards of classroom and field experiences, including early practicums and student teaching experiences; and university support during the induction of new teachers. The board shall revise teacher preparation standards as appropriate to assure rigorous standards are required and shall hold all teacher preparation programs accountable for meeting the standards.
- Require the Education Professional Standards Board to conduct an annual review of diversity in teacher preparation programs, require a plan of action to increase diversity, and take corrective actions as deemed appropriate for chronic non-compliance to the plan.
- Require the Education Professional Standards Board to provide assistance to universities and colleges in addressing the diversity issues, which may include researching successful strategies and disseminating the information, encouraging the development of non-traditional avenues of recruitment and providing incentives, waiving administrative regulations when needed, and other assistance as deemed necessary.
- Establish clear and meaningful consequences for the performance of postsecondary institutions that prepare teachers. Consequences may relate to access to base funding increments and incentive funds, and to continuation of teacher education programs. Terminate programs with unsatisfactory results or assign the program responsibility to another postsecondary institution with a proven record of good performance. Provide options for students to complete their programs.
- Continue work toward alignment of Kentucky teacher standards with regional and national standards, building on the current work of the Education Professional Standards Board; use appropriate assessments to determine if teacher preparation students meet the standards; and use the standards and student performance to monitor and assess the quality of teacher preparation programs.
- Request the voluntary P-16 council to implement a state-wide strategy, involving the Education Professional Standards Board and others as appropriate, for reviewing the alignment among the elementary and secondary education, postsecondary education,

and teacher education curricula and report their findings and recommendations to the Legislative Research Commission by January 1, 2001.

- Maintain a strong liberal arts component in the teacher preparation curriculum.
- Provide adequate resources, rewards, and incentives to supervising teachers, including compensation, released time, and tuition waivers for graduate education courses.
- Establish incentive funds for universities and colleges, including funds to develop model teacher preparation programs; funds which may be used to reward colleges and universities that demonstrate effective collaboration among departments of education, arts and sciences, and others within the institutions, and partnerships with local education agencies; and funds to conduct research on effectiveness of teacher preparation programs.
- Provide professional rewards in colleges and universities to faculty who are participating in the preparation of teachers or who are working directly with the public schools. Rewards may include credit toward tenure, promotion, and retention; and salary increments.

#### **Non-traditional Teacher Preparation Guiding Principle**

- The teaching profession can be enhanced by aggressive recruitment of highly talented individuals who did not pursue a teacher preparation program.

#### **Non-traditional Teacher Preparation Recommendations**

- Direct the Kentucky Department of Education to develop a statewide information program to encourage persons from diverse backgrounds, including persons of color, to consider teaching as a career and to encourage local districts to actively seek diverse candidates into teaching.
- Develop additional strategies to recruit and certify highly skilled teaching candidates from diverse backgrounds who desire a second or different career and college students with content area majors who did not initially pursue teacher education. Strategies may be directed at areas of teacher shortages, and incentives may include, but not be limited to, tuition waivers, loan forgiveness, job guarantees, and job signing bonuses.
- Require the Education Professional Standards Board to solicit the creation of one or more innovative, non-traditional teacher preparation programs through colleges or universities, private contractors, or the Kentucky Commonwealth Virtual University and to waive administrative regulations if needed in order to implement the program.

## **New Teachers Guiding Principles**

- Talented students should be recruited into teaching through an aggressive early recruitment program.
- Licensure should be serious and ensure that all teachers are well-prepared for each of his or her assignments.
- Support for new teachers must be long-term and of high quality to improve their retention and performance in the classroom.

## **New Teachers Recommendations**

- Require local school districts to have a formalized recruitment and interviewing process for both classified and certified employees.
- Require local board members, principals, and school-based decision making councils to have training in recruitment, interviewing, and hiring techniques.
- Develop a statewide recruitment and retention strategy to:
  - Establish teacher cadet programs to recruit capable high school students;
  - Substantially increase funding for the Minority Teacher Recruitment program and provide resources designed to dramatically increase what is available for equity initiatives in the Kentucky Department of Education;
  - Minimize recruitment in over-supplied areas and increase recruitment in shortage areas;
  - Provide financial incentives to attract candidates to subject matter areas with teacher shortages, including tuition waivers, loan forgiveness, and job guarantees and building on existing scholarship programs where appropriate;
  - Provide technical assistance to local school districts to establish recruitment and hiring procedures such as “grow your own” teacher candidate pools, recruitment of a diverse teaching faculty and administrative staff, and support for new teachers during the induction period; and
  - Develop other programs as needed.
- Strengthen the Kentucky Teacher Internship Program to:
  - Identify, recruit, and compensate high quality resource teachers, mentors;
  - Revise and strengthen the performance components;
  - Provide consistent, high quality training of all internship committee members;
  - Improve feedback and technical assistance to interns;
  - Increase funding for the program;
  - Expand the internship program to a two-year or more process; and
  - Make other changes as determined necessary.

- Provide incentives to local school districts to establish local assistance and support programs for teachers, but particularly for teachers who are assigned to high-poverty schools, low performing schools, and classrooms that have students with individual education plans.
- Provide technical assistance, when requested, to principals in analyzing teacher assignments, placement of students, and support needed for new teachers.
- Develop and implement strategies to attract candidates through non-traditional paths to the principalship, superintendency, and counseling areas.

### **Veteran Teachers Guiding Principles**

- Every child should have a certified, qualified, and caring teacher in every subject area.
- Licensure renewal requirements need to be strengthened.
- Every teacher should have access to high quality and relevant professional development, including ongoing opportunity for content-specific enrichment.

### **Veteran Teachers Recommendations**

- Strengthen the evaluation components for licensure renewal, including the teacher's subject matter mastery and demonstration of teaching methodologies appropriate to the subject area being taught, students' progress, and student learning styles.
- Establish procedures to ensure that all veteran teachers with general 1-8 or K-8 certification and who teach a core subject(s) in grades 6, 7, or 8, and teachers who teach in high school have competence in the specific content courses they teach. Procedures should include, but not be limited to: definitions of out-of-field teaching; data collection; assessment strategies; targeted professional development, formal coursework, and technical assistance for teachers who are assessed as deficient; reasonable timelines for eliminating deficiencies; and more appropriate teacher subject area assignments.
- Empower and assist teachers in the selection of high quality professional development to meet their individual and school needs that are based on local assessments relating to the achievement of national and state teacher standards, subject matter competence, effective teaching methods for student with diverse learning needs, and in areas where student achievement lags.
- Require the Department of Education to promulgate an administrative regulation that includes an assessment instrument that may be used as a part of the consolidated planning process or other planning process to determine how well each school is providing instruction and services to meet the needs of all culturally and academically diverse students.

- Require each school-based decision making council to conduct an assessment of its school environment to determine how well the school is serving culturally and academically diverse students; and require the school to implement strategies to address the deficiencies.
- Make available professional development programs and courses of study that help teachers master skills to help students with different learning styles and abilities, and that address cultural and equity issues.
- Create assessment and accountability mechanisms to evaluate professional development programs, including incentives related to the quality of service providers; provide for statewide dissemination of information regarding professional development providers.
- Establish teacher academies for elementary, middle school, and high school faculty in each of the core disciplines, utilizing facilities and faculty from universities and colleges, local districts, and other appropriate agencies throughout the state.
- Provide financial incentives and time for teachers to participate in professional development programs, including, but not limited to:
  - Individual grants, stipends, and paid leave;
  - Reimbursement for expenses and stipends for teachers pursuing certification by the National Board of Professional Teacher Standards and who will serve as teacher mentors or partners with other teachers; and
  - Grants for individual teachers, groups of teachers, and schools for subject matter collaboratives, content-based summer institutes, semester-long sabbaticals, and other appropriate activities that will enhance teacher skills.
- Provide professional development and ongoing technical assistance to teachers in all regions on how to utilize technology effectively in the teaching and learning process.
- Assist faculties in developing effective partnerships with community-based organizations, public facilities within the community to make available technology to students and parents without financial resources that enhance the student's use of technology.
- Develop local, regional, and statewide strategies to assist local boards of education, administrators, and teachers in promoting effective parental involvement in schools.
- Collect data regarding the use of evaluations of pre-tenured and post-tenured teachers to determine the effectiveness of current evaluation structures in eliminating incompetent teachers and in assisting marginal teachers to improve their skills. Study the teacher evaluation and appeal process, including the procedures required, the training of evaluators, the assistance given to teachers in developing corrective action

plans or individual growth plans, the structural design of the system, and the due process requirements. Amend the statutes or administrative regulations relating to evaluation as necessary.

### **Salary, Compensation, and Career Enhancements Guiding Principles**

- Incentives and career enhancements should be provided teachers through the duration of their tenure.
- Salary and compensation structures should support what Kentucky wants to achieve from its education system.

### **Salary, Compensation, and Career Enhancements Recommendations**

- Give priority to increasing the basic salary levels for beginning and veteran classroom teachers for their current job requirements, if revenues are available.
- Maintain a single salary schedule as a base for compensating all teachers, but provide extra compensation for qualifications such as:
  - Knowledge and expertise;
  - Higher levels of certification, including national certification;
  - Professional development participation and achievement;
  - Teachers in leadership roles such as mentors or teaching partners;
  - High GPA and Praxis II scores/folio for beginning teachers;
  - School-based student achievement gains; and
  - Difficult assignments, and recruitment in shortage areas including subject matter, geographic, or diversity.

In lieu of extra compensation, other benefits such as released time, additional days, or other incentives may be used.

- Permit districts to provide signing bonuses for recruitment of teachers when either a geographic or content-specific shortage area has been identified by the Education Professional Standards Board.
- Gradually shift employment of teachers to a longer employment year, including increased days for instruction, curriculum planning and design, and participation in or providing professional development programs. Design a phase-in process that will lead to the option of extended days for a percentage of teachers each year.
- Provide compensation enhancements to reward veteran teachers who demonstrate excellence in teaching and wish to remain in the classroom full-time.

## **Statewide Leadership Guiding Principles**

- Ensuring teacher quality is a partnership responsibility, including universities, colleges, local school districts, education professionals, education advocates, the Council on Postsecondary Education, the Education Professional Standards Board, the Kentucky Board of Education, and the Kentucky General Assembly.
- The Education Professional Standards Board should be an autonomous agency with authority for teacher preparation and certification, employment of personnel, budget preparation and management, and other administrative functions.

## **Statewide Leadership Recommendations**

- Reconstitute the Education Professional Standards Board (EPSB) as an autonomous entity with budget and employment authority. The reconstituted board should have an expanded membership, comprised of a majority of practicing P-12 educators, including teachers and administrators. All groups currently represented on the board shall also be included in the reconstituted board. The reconstituted board shall retain all board functions currently under its jurisdiction. The board should provide statewide leadership and coordination of efforts to improve and maintain teacher quality; provide clear and understandable communication with the public; and monitor, evaluate, and audit results as appropriate.
- Require the EPSB to make periodic reports to the General Assembly.
- Provide the EPSB with adequate, increased resources, including support staff, research, and data analysis capabilities.
- Require the EPSB to conduct or contract for research on reasons for teacher attrition and to suggest actions to be taken to diminish attrition in local school districts.



**REPORT OF THE 1998-99  
TOBACCO TASK FORCE**

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Rep. Jim Bruce, Vice-Chair**

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LRC Staff: Andrew Cammack, Biff Baker, and Wanda Gay

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **TOBACCO TASK FORCE**

**JURISDICTION:** matters pertaining to tobacco production, the price support program, no-net cost assessment, tobacco "pool," tobacco imports and exports, and any matter pertaining to the tobacco industry.

### **TASK FORCE ACTIVITY**

The Task Force has met nineteen times as of October 31, 1999.

At the Task Force's first meeting of the 1998-1999 interim, on June 22, 1998, University of Kentucky College of Agriculture representatives discussed the 1998 tobacco crop and the blue mold problem. Blue mold was first detected on tobacco in the state on April 3, and it came into the state on contaminated transplants from Florida. Though conditions were perfect for blue mold development, farmers were using control measures and more tobacco varieties having tolerance to blue mold have been planted this year. University of Kentucky representatives encouraged farmers to get transplants as close to home as possible, in order to avoid bringing blue mold into the state. University of Kentucky representatives said black shank disease could also be a problem.

Another subject discussed at the June meeting was the status of the tobacco settlement agreement and related legislation. It was noted that legislation to implement the settlement agreement failed. Declines in cigarette and leaf consumption and the likelihood of a quota cut were noted.

In July, the Task Force had several speakers address the federal tobacco program and the possible development of a tobacco program among tobacco states, in case the federal program is terminated. Speakers noted that the tobacco program has been very successful but the trend is toward abolishing federal commodity programs. Several problems that are likely to be encountered in creating a states' program were discussed.

In September, University of Kentucky representatives again discussed the 1998 tobacco crop. A drought followed the excessive early summer rains, lowering the crop's quality and estimates of crop size. Some of the late tobacco was poor and experienced unfavorable curing conditions.

One University of Kentucky representative focused his comments on the economic/political situation facing tobacco, and the market outlook. After a bad start, the tobacco industry was faring better toward the end of the year. Less pressure was being exerted to abolish the tobacco program. Concerns were expressed about falling cigarette consumption and tobacco exports and an increase in imports. Though there was uncertainty regarding the size of this year's crop, the representative estimated a 20-30 percent quota cut for 1999.

The 1998 tobacco crop was discussed again at the October meeting. A major tobacco company representative noted that because there is a large amount of poor tobacco, the Co-op's pool may take a substantial amount. Regarding the future of the tobacco program, the company representative said his company will support whatever farmers believe is in their own best interests.

On November 23, the Task Force attended opening day burley sales in Mayfield, Kentucky, and held a meeting there. Tobacco industry representatives attended the meeting and discussed the market, the tobacco situation and outlook, the recently concluded tobacco settlement agreement, and other topics. The Task Force also heard from dark fired tobacco interests.

In December of 1998 and January 1999, the Tobacco Task Force held four hearings around the state to hear tobacco farmers' views on how Phase I and II tobacco settlement agreement funds should be distributed. At the meetings, the chairman of the Task Force updated the audience on recent developments regarding the two funds. He said that in November 1998, 46 states signed the "master" tobacco settlement agreement (Phase I) in which the major tobacco manufacturers agreed to pay the states \$206 billion (\$3.5 billion to Kentucky) over 25 years. The settlement placed no restrictions on how these funds can be spent. The 1998 legislature had directed that the funds be placed in a settlement agreement fund to be appropriated by the General Assembly. SB 247 specified that the General Assembly's highest priority for distributing any funds from the settlement account be for tobacco farmers and tobacco-impacted communities and health-related areas. The chairman emphasized that the Task Force wants to make sure that agriculture get its fair share of the master settlement agreement funds.

As a part of the master settlement agreement, the tobacco companies agreed to meet with farm leaders to address economic concerns of tobacco farmers. As a result, meetings were then taking place on a potential \$5.15 billion secondary agreement (Phase II) which would come strictly to tobacco growers. This would mean \$1.5 billion to Kentucky tobacco quota holders and growers over 12 years.

The chairman asked for the audience's input on how to use Phase I funds and how to divide up Phase II funds among tobacco quota holders and growers. He encouraged members of the audience to voice any concerns they might have about the settlement.

Comments of those who testified suggested that of the Phase I funds, agriculture should get at least 50%. At a time when commodity prices were low and drastic cuts were expected in tobacco quotas, Phase I funds were described as a once in a lifetime opportunity to benefit and redirect agriculture in the state. But it was emphasized many times that farmers should get a part of the Phase I money and that they should not just get trickle down benefits from recommended programs. There seemed to be a consensus that the money should not be used for administrative costs. Opinions were mixed as to other uses of the funds. Diversification, cost share, education, access to credit, marketing, and infrastructure development had proponents. A few people advocated a buy-out of quota

from those who wished to sell, and some recommended subsidizing the secondary agreement (Phase II) to adequately compensate tobacco farmers for loss of income. There was no consensus on how to fund the needs of tobacco-dependent communities. There were mixed opinions on use of the funds for health care or health insurance.

Regarding Phase II funds, those who testified generally agreed that the payments should be based on the 1998 quota. They said the division of the funds among quota holder, tenant, and lessee should be carefully determined and fair. Many suggested a 50-50 split between quota holder and grower. Some favored more for the grower, who paid for the quota, and some favored more for the quota holder, who takes most of the risk. A few suggested that funds be used to buy quota from those who wish to quit growing tobacco. A number of those who testified recommended allowing cross-county leasing to make more quota available to those who want to grow the tobacco. A number of speakers pointed out that imports should be addressed and that since cigarettes will continue to be used in the U.S., Americans should be allowed to grow the tobacco. There was agreement that Phase II payments should be exempt from state income tax.

Two resolutions were passed at the hearing held in Maysville. One was to request that a representative of the Tobacco Task Force and a representative of the Subcommittee on Agriculture and Small Business of the Interim Joint Committee on Agriculture and Natural Resources be appointed to the board that will administer the Phase II funds. The other resolution called for prompt distribution of the funds (by December 1, 1999); immediate distribution rather than retention in a trust; the state's assumption of any administrative costs, basing the distribution on the basic quota; and exemption of Phase II funds from state income tax.

At the Task Force's February 15, 1999, meeting, cigarette taxes and cross-border cigarette sales were discussed. Speakers noted that cigarette tax disparities between states have increased, and states with low cigarette taxes benefit substantially from cross-border sales. In Kentucky 30% of all tax-paid sales go out as exports.

It was also noted that, as cigarette prices rise across the U.S., bootlegging across the U.S.'s international borders increases. A gray market exists where cigarettes made in the U. S. for export come back into the U. S. to be sold. These gray market sales cause loss of taxes and reduce cigarette sales numbers that payments from the settlement agreement are based on. The Task Force noted that gray market sales must be addressed.

How the USDA's Farm Service Agency (FSA) might assist in the distribution of Phase II settlement agreement funds was the main issue addressed at the March 15 Tobacco Task Force meeting. Members of the Task Force noted that the FSA has the data that will be needed to distribute funds and should be heavily involved in the effort to get funds distributed. It was suggested that the FSA could send out a form to all those eligible for payments. The FSA representatives responded that the agency probably could not modify its record keeping and forms for a state-specific program. The Task Force passed a motion that the chairman and staff should work with all interested parties, including other

states, to develop recommended changes to an FSA form or develop a new form or application that can be used by all burley states to facilitate distribution of Phase II tobacco settlement agreement funds.

Another motion was adopted stating opposition to the proposed \$0.55 federal cigarette excise tax. The motion also included a statement of the Task Force's opposition to a proposed federal lawsuit against the tobacco companies to recoup Medicaid funds.

Distribution of Phase II funds was discussed at the April 12 meeting. The Task Force was informed that a trust board chaired by the Governor would be set up to help in the distribution of Phase II funds. Two Task Force members were later made ex officio members of this board.

A representative of the trust board reported the board's progress to the Task Force on a regular basis. He reported that Kentucky's Phase II funds would amount to \$112.71 million for 1999. He said the distribution of Phase II funds for 1999 will be in three equal shares to the owner of the tobacco quota, to the person who owns or controls the land where the tobacco is grown and shares in the risk of production, and to the grower/tenant. If a person received all three payments, it would amount to about \$0.23 per pound of his basic quota.

Also at the meeting, the Commissioner of the Department of Property Valuation was asked to address any impact declining tobacco quotas would have on farm value assessments. The commissioner explained that the taxable value of a farm is the agricultural value. The agricultural value is supposed to be based on the income-producing capacity of the land. He said legislation was passed in 1994 that excluded tobacco as a factor used in determining agricultural value. As a result, loss of tobacco quota should not affect the agricultural value of the farmland. He said some counties are less advanced in their agricultural land valuation than others. Several legislators had remaining concerns about the valuation procedure, and a motion was adopted to ask an LRC economist to consult with the Revenue Cabinet and report back on how loss of income from tobacco will influence the equation that has been used to calculate agricultural value and whether it should be factored in. The economist reported at the June 21 meeting stated that since the returns for tobacco are not part of cash rent estimates used in calculations, reductions in quota should not affect agricultural assessments. One legislator concluded that the General Assembly should take a serious look at whether it is fair to tobacco farmers to keep their property taxes up while the value of their farms goes down.

The Task Force members traveled to Lexington to the Tobacco and Health Research Institute for their May meeting. The institute director discussed the biomedical research and the tobacco biotechnology research being carried out. He noted that the institute is giving more emphasis to biotechnology, including commercialization of bioengineered products. More research is being done on blue mold and disease resistance in the tobacco plant. The Task Force toured the facility.

The recommendations for the use of Phase I tobacco settlement funds made by representatives of the agricultural community were discussed at the Task Force's July meeting. A spokesman of this group presented what he called "A Unified Investment Proposal for Kentucky Agriculture." He said Phase I funds provide a once in a lifetime opportunity to make historic changes for the betterment of Kentucky's agricultural economy and rural communities. The proposal contains eight broad investment categories: livestock/forage; environmental cost-share; horticulture; agricultural entrepreneurship and rural development; biotechnology; access to capital; marketing and promotion; and agricultural research, infrastructure, and education. The proposal would dedicate a little over 60% of the Phase I funds to agriculture. The proposal received the support of many on the Task Force. Some members stated they would like to see more of the Phase I funds go directly to tobacco farmers, and perhaps less to the Frankfort bureaucracy, the universities, and the Department of Agriculture. One member recommended a revolving fund to be used to buy quota for resale.

In August, the Task Force heard about Virginia legislation allowing for distribution of Phase I funds, and an alliance of tobacco and agricultural interests with health interests that was crucial to passage of the legislation. A representative of the Burley Co-op noted that these interests have also been working together in Kentucky. A number of tobacco farmers have agreed to support youth smoking prevention, and health interests are supporting the tobacco program.

A legislator, a tobacco farmer, and a health advocate from Virginia spoke. They said that without the farmer/health alliance, Virginia's Phase I legislation would not have passed. The bill provides 50% of the funds to tobacco farmers and agriculture, 10% to prevent youth smoking, and 40% to the general fund.

Also at the August meeting, concerns were raised about lawsuits being filed in Texas against Kentuckians, on behalf of H-2A workers from Mexico. Task Force members felt that the lawsuits were often not justified, and noted that Kentuckians had to go to Texas to defend themselves. The Task Force adopted a resolution calling on Kentucky's Congressional delegation to do something to stop this wave of lawsuits and to require the lawsuits to be filed in the place where the infractions are reportedly taking place.

At the Task Force's September meeting, members heard a U.K. College of Agriculture economist's report on the 1999 tobacco outlook. The economist said the basic burley quota was cut this year by 28%, to 450 million pounds, the lowest basic quota in the history of the tobacco poundage program. In 1999, farmers did not significantly reduce acreage planted from that planted in 1998, but the drought has lowered the crop size. A yield of 536 million pounds belt-wide is currently expected. A significant portion of the 1999 crop will be of poor quality. Very dry curing conditions have produced a lot of bright tobacco, for which there is little demand.

Worldwide, 1999 burley supply will exceed demand, and demand for U. S. tobacco and cigarettes is down. Demand for U. S. tobacco may stabilize at a lower level than in the past.

The burley Co-op is holding excess tobacco. These pool stocks are raising the no-net cost fee to farmers to 3 cents per pound this marketing season. In addition, the Co-op is expecting to take an additional 75 to 100 million pounds this marketing season. With excess supply and weak demand, another quota cut is likely. If the companies' purchase intentions rebound this coming year, the cut could be fairly small. If not, the cut could be 20%. If this is the case, the quota cut in the last three years would be almost 60%, a devastating blow to tobacco farmers. Despite the bad news, the economist said tobacco will continue to play a significant role in Kentucky's agricultural economy, but he said that because of the changes in the tobacco situation, the tobacco dollars are likely to be concentrated in fewer growers' hands and in fewer grower communities.

One legislator noted that dark tobacco does not receive enough attention in reports on the tobacco situation in Kentucky.

A representative of the Kentucky Tobacco Settlement Corporation updated the Task Force on Phase II funding at the October meeting. He noted that 83% of the applications for funding have been returned. This probably represents 95% of the quota pounds in the state. The individuals represented on these applications should receive their payments around December 31, 1999. He said the Corporation will meet in November to consider the details of how next year's payment distribution will be handled.

The Corporation representative also discussed distribution of money to tobacco farmers that will result from the emergency relief package recently passed by Congress. It includes roughly \$135 million for compensating Kentucky tobacco quota owners and growers for loss of quota and income from 1998 to 1999. This money could be administered according to the same formula adopted by the Kentucky Tobacco Settlement Corporation to distribute Phase II funds. The Task Force adopted a resolution recommending that this formula be used to speed distribution of funds to tobacco farmers.

Also at the October meeting, members of the Community Farm Alliance (CFA) presented their views on distribution of Phase I Settlement Agreement funds. A representative said a settlement trust fund should be legislatively mandated to include a vision for Kentucky agriculture. The mandate should encourage development of an agricultural economy that encourages family scale farming and cooperative efforts over concentrated industrial or biotech production; that promotes the stability of diversification, and environmental and cultural sustainability; and that encourages farmers and cooperatives to add value through processing and marketing. He said CFA supports the majority of the tobacco settlement funds being used for those people and communities most affected by tobacco. He said CFA also supports funds designated for universal health care and programs to stop youth smoking. He said the current tobacco program should be

maintained as long as possible in order to provide stability and some security as Kentucky farmers diversify.

Several legislators pointed out that it's important for all agriculture interests to achieve unity in order for agriculture to be successful in receiving Phase I funds.

Next, a representative of the Burley Co-op discussed contract growing of tobacco. He said the tobacco program has worked well ever since its inception. Farmers and the program have faced many challenges. The latest is "big tobacco's" attempt to institute contract growing. Companies say they cannot get all of the specific types and qualities of tobacco they want. The Co-op representative said farmers have agreed to do a number of things the companies suggested in order to provide that tobacco, but some companies still want to talk about contracting.

The representative said that, under contracting, Kentucky is likely to lose 50% of its tobacco farmers and 80% of its tobacco warehouses. He said small growers would suffer most and that contracting would end the warehouse auction system and the tobacco program. He said the program would not survive if the big companies do not purchase tobacco at the warehouse because they have already bought their tobacco through contract.

The November meeting was held in Cynthiana and was preceded by a tour of Cynthiana and Paris tobacco warehouses on 1999 opening day of burley sales. At the meeting, members expressed concern that prices were lower than last year, but their main concern was that so much of the tobacco was being taken by the Co-op pool. This along with other deteriorating market factors suggested that the 2000 burley quota cut might be more severe than originally anticipated. Members heard from county agents in the area who noted that their counties had suffered greatly from the drought, which had caused poor yields and poor quality tobacco. Tobacco farmers were deeply concerned about their future.

The Task Force scheduled a meeting for December.

### **Tobacco Program Subcommittee**

HCR 14, passed by the 1998 General Assembly, directed the Tobacco Task Force to look at an alternative program, in case the federal tobacco price support program is terminated. A subcommittee of the Task Force was approved by the Legislative Research Commission for this purpose.

At the subcommittee's only meeting, members discussed the issues and possible approaches involved in creating a states' tobacco program. Members noted that any alternative program would need to limit tobacco production and provide price supports, changes likely to require some federal legislative authority. Members also discussed

controlling production through a tobacco marketing cooperative, with the tobacco companies agreeing to restrict whom they would buy from.

Members suggested the subcommittee needs to determine whether other states are really interested in an alternative program in the event the federal program is terminated. Members maintained that keeping the present federal program should be the first priority. Members noted that legislation negatively affecting the tobacco program may not be revived for some time, so the state may have additional time before there is another challenge to the program's existence. Members concluded that until there appears to be another eminent threat to the tobacco program, no initiatives are needed.

**REPORT OF THE 1998-99  
SPECIAL SUBCOMMITTEE ON  
VETERANS' AFFAIRS**

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Rep. Eddie Ballard, Chairman**

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KENTUCKY GENERAL ASSEMBLY**



## **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 1998-99 Interim, the Special Subcommittee on Veterans' Affairs held 13 meetings prior to November 1, 1999.

The Special Subcommittee on Veterans' Affairs met monthly during the interim. The implementation of several significant bills passed by the 1998 General Assembly was the core of its agenda. In particular, the progress of the two new veterans' nursing homes scheduled to open in February 2000 in the towns of Hazard and Madisonville and the development of state veterans cemeteries were tracked monthly. Each meeting included updates from the two Kentucky VA medical centers, the Joint Executive Council of Veterans' Organizations, and the Kentucky Department of Veterans' Affairs. During this interim, the subcommittee has been instrumental in creating a special license plate honoring the armed forces. The plates will be available in January 1999 with special designations for branch of service and military campaign. Additionally, November 11 was established as a state holiday to honor Kentucky veterans.

Two bill requests have been prefiled for the 2000 legislative session. The first seeks to provide funding for the Kentucky National Guard to perform military honors at veterans' funerals and the second would establish a preference for veterans within the state employment system.

In addition, five other legislative objectives were identified for the 2000 session: (1) construct and operate at least one state veterans' cemetery; (2) increase the staff of the Department of Veterans' Affairs to expand the veterans' counseling program; (3) adequately fund the new veterans' nursing homes in Madisonville and Hazard to facilitate rapid admission and maximum occupancy; (4) appropriate one-time funding to the National World War II Memorial fund in honor of Kentucky WW II veterans; and (5) authorize a homeless veterans program under the Kentucky Department of Veterans Affairs.

At its January 25, 1999, meeting, the subcommittee adopted a Resolution forwarded to the Kentucky Congressional Delegation supporting the President's proposed revision of the G.I. Bill. A legislator reported on the status of the Kentucky State Civil War Memorial at Vicksburg. It was noted that Kentucky was the only state that had troops at the Siege of Vicksburg and that has not erected any type of memorial. Also the Kentucky National Guard and the Commissioner of the Department of Veterans' Affairs

reported on the proposal for military funeral honors, basic Educational Assistance Entitlement for Service in the Selected Reserve, and the G.I. Bill 2x4 Program. In addition, the Thomson-Hood Medical Center was transferred from the Finance Cabinet to the Department of Veterans' Affairs. Site selection and land acquisition for the two new veterans' nursing homes was completed. Each meeting included updates from the two Kentucky VA medical centers, the Joint Executive Council of Veterans' Organizations, and the Kentucky Department of Veterans Affairs.

At its February 22, 1999, meeting, the following issues were discussed: (1) the Adjutant General, Kentucky National Guard, reported on the Tuition Assistance Program; (2) the Adjutant General, Fort Knox, reported on burial honors provided by Fort Knox; (3) the Program Coordinator, Troops to Teachers, discussed the certification of former military professionals to teach in Kentucky schools and the programs objectives; and (4) Director of Services, Kentucky Department of disabled American Veterans, described the DAV's transportation network.

At its meetings on March 22, 1999, Deputy G1, Fort Campbell Casualty Area Command (CAC), Fort Campbell, Kentucky, stated that the purpose of the CAC is to coordinate funeral support throughout the state of Tennessee and 51 counties in Kentucky and described the minimum support requirements for active duty and Medal of Honor recipients. Also, the Director of the Huntington, West Virginia, VA Medical Center discussed the Center's services for Kentucky veterans. A member of the subcommittee reported on the veterans license plates.

At its April 26, 1999, meeting, National President of the American Legion Auxiliary and the Development Associate for Veterans Affairs, American Battle Monuments Commission, Arlington, VA, discussed the proposed national World War II Memorial in Washington, D.C. The Commissioner, Department of Veterans' Affairs, briefed the subcommittee on the congressional military budget impact on Kentucky; Cold War Recognition Certificates; VA medical facilities in Kentucky and surrounding states; burial honors; and special military license plate fees.

At its May 24, 1999, meeting, the Commissioner of the Department of Veterans' Affairs presented the Department's finding on other states' participation in the WW II War Memorial and reported that the military license plates would go on sale in County Clerks' Offices in Kentucky on June 1. The Executive Director of the Thomson-Hood Veterans Center informed the subcommittee that groundbreaking ceremonies for the Hazard location had been set for August 28, 1999, and September 18, 1999, for the Hanson location. A member directed LRC staff to request the governor prepare a proclamation recognizing the 100th Anniversary of the VFW and to draft a Joint Resolution.

At its June 28, 1999, meeting, the Commissioner of the Department of Veterans' Affairs briefed the subcommittee on the State Cemetery Grant program. In April 1999 three pre-applications for state veteran cemeteries were presented to the subcommittee.

Also the construction cycle for the two new nursing homes is two months ahead of the construction projections.

At its August 23, 1999, meeting, concern was expressed regarding the revision of the Kentucky Council on Postsecondary Education's (CPE) Pre-College Curriculum which would take effect in the fall of 2002. A member of the subcommittee discussed a bill draft proposal concerning the fees for the various military license plates. The subcommittee also heard from the Kentucky State Director and the U. S. Department of Housing and Urban Development (HUD) on five services HUD provides for veterans and active military personnel in Kentucky. The subcommittee also learned that, according to national statistics, one out of every three homeless persons is a veteran. In addition, the members were briefed on the Northern Kentucky facilities for veterans and were reminded of the two new nursing home groundbreaking ceremonies. A brief report was also given on the Selective Service System by the State Director of the Selective Service System in Kentucky.

At its September 27, 1999, meeting, the Education Service Office, Kentucky National Guard, reported on the Tuition Assistance Program related to the National Guard's 2000 Session legislative package. The Deputy Commissioner, Department of Veterans' Affairs told the subcommittee that the U. S. House of Representatives had drafted legislation with \$11 million appropriated for veterans cemeteries and that Senate legislation \$25 million was in conference. Sixteen applications from counties for cemetery sites had been received, and the Selection Committee was reviewing each site. Kentucky is in line for three sites, and one would be funded if the current federal budget reaches \$25 million. The subcommittee also learned that \$1.7 million new money is going to veterans in Kentucky each month.

At its October 25, 1999, meeting, the committee was informed by Kentucky District One's veterans' services officer of the supplemental transport van needs of Western Kentucky veterans to and from VA medical centers in Marion, Illinois, Nashville, Tennessee, and the Paducah Clinic. The need for an additional van was agreed upon and state surplus vans were identified as one source.

Kentucky representatives for Vietnam Veterans of America (VVA) reported on the national organization's programs and funding. With 50,000 members, the VVA provides programs on veterans' issues, including Government Relations Advocacy; National Task Force for Homeless Veterans; health care, including the disabled, women, and minority veterans; national scholarship fund; and assistance to veterans seeking benefits or services from the government.

Representatives from the Disabled American Veterans (DAV) addressed the organization's programs and funding. The DAV reported they operate on 100% private contributions and dues and administer multiple veterans' programs including counseling, health care, pension, job training, burial benefits, education benefits, and survivors' benefits.

The committee heard legislative priorities for the Joint Executive Council on Veteran's Organizations (JECVO) and the Kentucky Department of Veterans Affairs (KDVA). Priorities include construction and operation of at least one new veterans' cemetery, expansion of the KDVA's staffing for veteran counseling and homeless veterans programs, additional funding to complete and operate the new veterans nursing homes, a centrally coordinated Veterans' Burial Honors Program, and re-establishing the Special Subcommittee on Veterans' Affairs.

At its November 22, 1999, final interim meeting, the committee approved the following resolutions: BR 1083/1084 to re-establish the Special Subcommittee on Veterans' Affairs, resolutions thanking the Kentucky Congressional Delegation for additional funding for VA Medical Centers and cemeteries, and recognizing WalMart for their pledge to raise \$40 million for the WWII Memorial. The Commissioner of KDVA completed the department's session 2000 legislative agenda. There were four Resolutions adopted by the subcommittee honoring individual veterans.

The following resolution requests have been filed for the 2000 legislative session: (1) a Resolution to make all fees for military license plates uniform; (2) BR 190 and BR 880 calling for approximately \$312,000 to be given to the WW II Memorial Fund; (3) a Joint Resolution recognizing the 100th Anniversary of the VFW; (4) a Joint Resolution naming the veteran's home in Hanson, Kentucky, in Hopkins County, "The Joseph "Eddie" Ballard Veterans Home"; (5) a Resolution regarding "Troops to Teachers" program; and (6) House and Senate Resolutions to re-establish the Special Subcommittee on Veterans' Affairs for the 2000-2001 interim.

**REPORT OF THE 1998-99  
TASK FORCE ON FUNDING FOR  
WILDLIFE CONSERVATION**

**Sen. Joey Pendleton, Co-Chair  
Rep. Royce Adams, Co-Chair**

Sen. Charlie Borders  
Rep. Dwight Butler  
Rep. Dennis Horlander  
Rep. William Scott

Joe Bland, National Wild Turkey Federation  
Mike Boatwright, Kentucky Department of Fish and Wildlife Resources Commission  
Earl Clemons, Governor's Office of Policy and Management  
Taylor Davidson, American Association of Retired Persons  
Frank Elsen, Kentucky Waterway Alliance  
Ben Hall, League of Kentucky Sportsmen  
Bill Hintze, Kentucky Long-Term Policy Research Center  
Stephanie Robey, Auditor of Public Accounts  
Robert Rumpke, Kentucky Tourism Council  
Steve Woodring, Trout Unlimited

LRC STAFF: Andrew Cammack, Kim Burch, and Wanda Gay.

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
2000 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **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.

As a result of HCR 76, the Legislative Research Commission appointed a Task Force on Funding for Wildlife Conservation. The Task Force held extensive meetings in the 1996-1997 interim and completed a report in October 1997. The 1998 General Assembly passed Senate Concurrent Resolution 131, which reauthorized the Task Force and directed it to convene once in 1998 and once in 1999 to address the progress being made toward implementing the recommendation in the Task Force's 1997 report.

### **TASK FORCE ACTIVITY**

At the Task Force's 1998 and 1999 meetings, the Commissioner of the Kentucky Department of Fish and Wildlife Resources (KDFWR) reviewed the progress that has been made in implementing the Task Force's recommendations contained in its 1997 report. The Commissioner also reviewed some developments in other states, and discussed some of the department's plans for the future.

The Commissioner first reviewed some conclusions reached by the Task Force and department. He said wildlife programs need support and financial assistance. Funding for the department comes mostly from hunting, fishing, and boating license sales, which are declining. Federal funds coming to the department are based on the number of licenses sold in the state. Exemptions from purchase of full-price licenses have been increasing. Hunters, anglers, and boaters pay for department programs which benefit all Kentuckians. KDFWR is obligated to conserve wildlife for all Kentuckians, not just hunters, anglers, and boaters. Sixty-five percent of Kentuckians favor some way for all Kentuckians to pay for wildlife programs. Without additional support, KDFWR faces substantial funding problems.

The Commissioner noted that the 1998 General Assembly enacted a number of the Task Force's recommendations into law. Out of the Task Force's primary recommendations related to resolving the "over 65/disabled" license exemption issue. The Commissioner said that passage of HB 654 resolved this issue. These individuals are now charged \$5 for a combination hunting and fishing license and receive other licenses such as deer tags free. This change should generate \$400,000 in state revenue and \$800,000 in additional federal revenue for the state in its first year.

The Task Force's second recommendation related to a proposal to increase the state sales tax by 1/8 cent to fund wildlife conservation. The Commissioner said the department has not found a sponsor or any interest among legislators for implementing a

new tax. He said the department will continue to assess the political landscape and keep this recommendation in mind.

Primary recommendation number three was to support the passage of the "Teaming with Wildlife" proposal, which was to broaden the federal excise tax currently on hunting, fishing, and sport shooting equipment to include other outdoor recreational equipment. The Commissioner noted that efforts to pass this proposal have been abandoned at the federal level. A new strategy is being pursued to divert some existing federal revenue to fund conservation activities. The strategy is contained in the proposed "Conservation and Reinvestment Act," which would divert outer continental shelf leasing revenues to fund coastal impact assistance, land-based recreation, and wildlife and conservation. The last category of funding would provide \$4 to \$6 million per year to the department. Other provisions of the bill could help with purchase of wildlife and conservation lands in the state. The Task Force adopted a resolution supporting the "Conservation and Reinvestment Act" and asking Kentucky's congressional delegation to co-sponsor and support the bill. The delegation later became very supportive.

The Commissioner discussed other recommendations of the Task Force. He noted that seven other recommendations of the Task Force were addressed in HB 717 which was passed by the 1998 General Assembly. These provisions would remove from statute the minimum and maximum amounts the department can charge for licenses or permits, declare money collected by license agents as state funds held in trust for the department, give the department 60% of boating fines, allow the department to set boating registration fees by administrative regulation, exempt government agencies which charge a fee for a general use permit from increased liability, and give officers enforcing boating laws the same protection as when enforcing wildlife laws. He added that HB 1 raised fines for boating law violations.

Relating to other recommendations of the Task Force, the Commissioner said the department continues to attempt to broaden the appeal for funding for wildlife to a wider constituency. The department is working on ways to increase efficiency and streamline the agency and has eliminated some personnel positions. The department has sought corporate sponsors with considerable success. The department is making fishing opportunities more available to urban populations and the disabled. According to the Commissioner, the department is coordinating its activities with other agencies. The department has obtained increases in salaries for its professional employees. The Commissioner said the department recently initiated a review of the out-of-state fees charged by surrounding states to make sure that the department does not hamper tourism if it increases Kentucky's out-of-state fees. One of every seven departmental licenses sold in Kentucky is an out-of-state license.

The Commissioner noted that hunting and fishing license sales continue to decline, which presents a major concern. Given the overall department budget situation, an increase in license and permit fees will be needed in 2001 or 2002. Through various efforts the department has managed to postpone this license fee increase for several years.

The Commissioner said the department has developed a five-year revenue and expenditure plan (through 2005) which keeps the department from having to increase license fees every year. He said, at this point, instead of doing one lump sum license increase, the department has opted for a split. In 2001 or possibly 2002, one half of the license increase will take place, and two to three years later, the other half of the increase will take place. This may cause the department to lose fewer license sales that might result from a big increase.

The Commissioner said a big issue related to department funding is what happens to the federal "Conservation and Reinvestment Act." If it passes, the department will have some breathing room for five to ten years.

The Commissioner noted that Virginia recently passed a bill that dedicates a portion of the state sales tax on hunting, fishing, and wildlife-watching equipment to the Department of Game and Inland Fisheries. He also noted that Arkansas' fish and game agency now receives \$1.5 million per month from the additional 1/8 cent sales tax it recently added for wildlife conservation.

One member of the Task Force said the Task Force was charged with finding ways for all Kentuckians to pay for funding the department, and it has not come up with a way to do that. He suggested the state could do something like the formerly proposed "teaming with wildlife" initiative. A broad based excise tax on recreational goods could be enacted in Kentucky to generate revenues.

One member noted that the Governor has come out with a comprehensive list of environmental initiatives. He suggested the Task Force might link its initiatives to those environmental initiatives. This might generate a coalition of support that could get the 1/8 cent sales tax increase passed.

The Commissioner asked if it would be useful for the department to frame some questions regarding the Task Force's concerns and to put them in a University of Kentucky poll as had been done in the past. The Task Force agreed to submit questions.

The Commissioner discussed Task Force recommendations not yet addressed by the department and departmental plans for the future. Task Force members adopted a motion to reaffirm their interest in the issues not yet addressed.

Task Force members noted that there are still a lot of unknowns regarding future funding for the department and adopted a motion to recommend reauthorizing the Task Force to meet once in the fall of 2000 and in the spring and fall of 2001, to continue to keep track of funding developments.