

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

**1994-95**

**Informational Bulletin No. 194**

**Legislative Research Commission  
Frankfort, Kentucky  
December, 1995**

## 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 1994 interim, the Legislative Research Commission authorized the formation of thirteen interim joint committees. In addition, six special committees were established to address particular issues during the interim. Six committees of the General Assembly and the Legislative Research Commission are authorized by statutes: The Administrative Regulation Review Subcommittee, the Capital Planning Advisory Board, the Capital Projects and Bonds Oversight Committee, the Personal Service Contract Review Subcommittee, the Program Review and Investigation Committee, and the Legislative Compensation Commission.

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 1994 General Assembly. The reports were prepared separately by the committee staff and were compiled and edited by Charles Bush, Research Editor.

Don Cetrulo  
Director

The Capitol  
Frankfort, Kentucky  
December, 1995

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

**1994-95**

Presented to the  
**Legislative Research Commission  
and the  
1996 Kentucky General Assembly**

Edited by  
**Charles Bush**

**Informational Bulletin No. 194**

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**REPORT OF THE 1994-95  
INTERIM JOINT COMMITTEE ON  
AGRICULTURE AND NATURAL RESOURCES**

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION  
OF THE KENTUCKY GENERAL ASSEMBLY**



## **SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

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Rep. Richard Turner

**EX-OFFICIO MEMBERS OF ALL SUBCOMMITTEES**  
**Sen. Jeff Green and Rep. Herbie Deskins, Jr.**

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

**COMMITTEE JURISDICTION:** matters pertaining to crops, livestock, poultry, and their marketing, disease control, and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; 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 14 times during the 1994-95 legislative interim as of November 30, 1995. The Committee has permission to meet in December 1995. Possible agenda items for a December meeting are legislative proposals from state agencies for the 1996 regular session, a report on the state's biodiversity, and administrative regulations referred to the Committee in December. Two of the Committee's meetings were held outside of Frankfort: one a two-day meeting in Eastern Kentucky, and the other at the State Fairgrounds with members of the State Fair Board. The Committee's four subcommittees met 11 times during that period, making a total of 25 meetings during the interim.

The Committee's activities have addressed a wide range of subjects, including forestry, solid waste management, hazardous waste management, water quality, Breaks Interstate Park, citizen complaints, low-level radioactive waste management, petroleum underground storage tanks, the State Fair, state administrative regulations, and the status of Kentucky's environment.

### **Forestry**

The Committee devoted more time to forestry than any other subject. The Committee devoted three meetings to forestry and produced a twenty-seven minute video on forestry issues. Almost 50 percent of the state's land area is forested. The state's forest resource has received considerable public attention during the last year. An increased demand for the state's forests has renewed interest in maintaining the forest resource and protecting associated land and water. The Committee's first meeting on forestry was a public hearing on forestry concerns conducted at Jenny Wiley State Resort Park. The second meeting focused on the forest policies of other states, and the third meeting was an overview of forestry issues presented by the state Division of Forestry.

## Environment

Several environmental issues were considered by the Committee. The Environmental Quality Commission presented its second report on the status of the state's environment, *The State of Kentucky's Environment: 1994 Status Report*. The overall message of the report is continued progress in environmental protection. For example, the percent of impaired waterways in 1972 has been reduced from 71 percent of the total water miles assessed to 28 percent in 1993.

The members of the Committee were concerned that portions of the state might not have sufficient landfill capacity to meet the more stringent standards in effect July 1, 1995. The Secretary of the Natural Resources and Environmental Protection Cabinet reported that the Cabinet was closely monitoring the situation, and all counties will have landfills available to them. The Secretary acknowledged that the turnover of permit review personnel may sometimes slow the review process. The southeastern region of the state was the most likely to have an inadequate number of contained landfills.

Legislation was enacted in 1990 which encouraged the proper disposal of waste tires. Legislation enacted in the 1994 regular session attempted to encourage the recycling of waste tires. However, the lack of proper facilities in the state for recycling hampered this effort. The Cabinet reported to the Committee that a temporary system had been devised which would allow time for facilities to become certified for the recycling of waste tires.

As a result of the Committee's concern about the slow progress in cleaning up hazardous waste sites in the state and the percentage of funds spent on consulting services for the cleanup of these sites, the Natural Resources and Environmental Protection Cabinet reported on the state's Hazardous Waste Management Assessment Fund. The fund is supported by an assessment on each generator of hazardous waste within the state. About \$2.2 million is collected each year by the fund. About \$7.7 million was spent or obligated by the fund in the 1992-94 biennium. Money in the fund is used primarily in the cleanup of non-federal emergency and non-emergency hazardous waste sites and in cost-sharing in federal Superfund sites located in Kentucky.

The Committee received a report on the Central Midwest Interstate Low-Level Radioactive Waste Compact, which is composed of Illinois and Kentucky. The compact was created as a result of Public Law 96-573, enacted by Congress in 1980. This federal law requires each state to be responsible for the nuclear waste generated within its borders, and allows states to create interstate compacts to dispose of the low-level nuclear waste. States in a compact may exclude nuclear waste from other states not in their compact. Kentucky entered the compact in 1986 and the compact was amended in 1994. Kentucky was not interested in being the host state for the disposal site because of the bad experience with the disposal site at Maxey Flats in Fleming County. The compact effectively prohibits Kentucky from becoming the host state for the disposal site because Kentucky generates only one to two percent of the low-level nuclear waste which Illinois

generates and the compact requires the host state to generate at least 10 percent of the total waste generated in the region.

The Committee was interested in the fact that there are two certification procedures for contractors in regard to petroleum underground storage tanks. Representatives of the Petroleum Storage Tank Environmental Assurance Fund Commission and the State Fire Marshal's Office explained the two certification procedures as being different and for different purposes. There appeared to be no duplication or conflict in the two procedures.

The Committee was concerned that the Center for Pollution Prevention (Kentucky Partners) might be changing the intent of the program as established by the General Assembly. One concern of the Committee was that the Center was becoming an enforcement agency for the Natural Resources and Environmental Protection Cabinet and thereby becoming less helpful for industry. Another concern was the replacement of the director of the program. The Committee requested the staff to report on pollution prevention programs in other states, which it did.

One meeting of the Committee was devoted to citizen complaints in regard to the Natural Resources and Environmental Protection Cabinet. The citizen complaints dealt mainly with matters related to water pollution and landfills. The citizens maintained that the Cabinet did not offer enough assistance to the regulated communities and relied too heavily on enforcement. The Committee requested the Secretary of the Cabinet to respond to the complaints, which he did by presenting a letter to the Committee.

### **Agriculture**

Another issue considered by the Committee related to water quality, soil conservation, and agricultural operations. It was brought to the Committee's attention that sometimes a farmer is not aware of or is confused by state and federal requirements to protect water quality when constructing small watershed projects, grassed waterways, and grade stabilization projects. In an effort to reduce this confusion, the involved agencies were asked to explain their respective roles. A representative of the U.S. Army Corps of Engineers explained the requirements for issuing 404 permits in dredging and filling operations. A representative of the state Division of Water explained the requirements for issuing a 401 certification to protect the quality of surface water in agricultural operations, and a representative of the federal Soil Conservation Service (now the Natural Resources Conservation Service) explained that it provided technical assistance to farmers in implementing soil conservation practices.

The Committee met with the members of the State Fair Board at the State Fairgrounds during the 1995 State Fair. This was the eighth time the Committee had met with the members of the State Fair Board during the State Fair. The expansion of the Commonwealth Convention Center was discussed, as well as the progress of this year's State Fair. The State Fair Board mentioned that additional parking is needed, and the

Kentucky Fair and Exposition Center will need renovation from time to time because it is now about 40 years old.

### **Eastern Kentucky Visit**

The Committee held a two-day meeting in Eastern Kentucky. The first day and night were spent at Breaks Interstate Park, which is a 4,600 acre park located in and operated by Virginia and Kentucky. About one-third of the park is located in Kentucky. The park contains the largest canyon east of the Mississippi River. The development proposals for the park were discussed, as well as whitewater rafting, which is increasing in popularity.

The second day was devoted mainly to a public discussion of the state's forest resource. The meeting was held at Jenny Wiley State Resort Park.

### **Administrative Regulations**

The Committee receives about 27 percent of all administrative regulations of state government agencies. This interim the Committee received 249 administrative regulations. Sixteen of these will be considered by the Committee at its meeting November 14, 1995. The Committee will very likely receive administrative regulations in December. The Committee has received approval from the Legislative Research Commission to meet in December. Of the 233 administrative regulations already considered by the Committee, the Committee determined that 132 comply with KRS Chapter 13A, one was found deficient (401 KAR 100:050, relating to risk assessment), one was considered but no official action was taken (401 KAR 5:037, relating to groundwater protection), 73 became effective because the Committee did not meet, 24 became effective after a quorum was lost, and two were deferred to the next meeting. These administrative regulations related to a wide range of subjects, such as agricultural conservation easements, heritage land, surface mining, conservation, livestock sanitation, water quality, air quality, solid waste, hazardous waste, emergency response, water patrol, and fish and wildlife.

The Committee sent a letter to agencies notifying them that the regular meeting date for the Committee had been changed from the fourth Wednesday of each month to the second Wednesday.

### **Reports**

House Bill 282 of the 1994 regular session created the Newsprint Recycling Task Force and required it to report to the Committee by October 1, 1995, "on the availability and cost of adequate supplies of newsprint..." This report was made and is discussed under the Subcommittee on Environment.

House Joint Resolution 81 of the 1994 regular session created the Task Force on Underground Coal Mining Penalties and required it to report quarterly to the Committee. No report has been made.

The staff reported on the pollution prevention programs in other states, as requested by the Committee.

### **Review of and Report on Reorganization Plans**

The Committee reviewed and reported to the Legislative Research Commission on the following Reorganization Plans for Executive Orders:

94-1206, creates a Sales Division in the State Fair Board;

95-113, abolishes the Division of Recycling Brokerage in the Cabinet for Economic Development and transfers the division to the Department for Environmental Protection;

95-169, creates the Office of Legal Services in the Natural Resources and Environmental Protection Cabinet and abolishes the Department of Law; and

95-1115, creates the Office of Information Services in the Natural Resources and Environmental Protection Cabinet and abolishes the Office of Communications and Community Affairs.

The Committee determined that each of these Reorganization Plans "...can reasonably be expected to achieve greater economy, efficiency or improved administration in state government..."

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

The Committee requested legislative proposals for the 1994 regular session from state agencies with programs under the jurisdiction of the Committee. This has been a standard procedure of the Committee since the interim joint committee system began in 1968. The letter requesting these legislative proposals was dated April 19, 1995, and asked for the proposals to be turned in by August 1, 1995, and discussed by the agency at the Committee's meeting October 11, 1995. No legislative proposals were received through November 14, 1995.

### **Resolutions**

The Committee approved a resolution to be sent to the Natural Resources and Environmental Protection Cabinet recommending that the Cabinet cease listing enforcement actions in the publication *Land, Air and Water*.

The Committee sent a resolution and an accompanying letter requesting a representative of the University of Louisville to discuss the Kentucky Partners program for a second time before the Committee.

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

The following prefiled bills for the 1996 regular session were referred by the Legislative Research Commission to the Committee:

96 RS BR 208, relating to cooperative agreements for transporting coal;

96 RS BR 290, promoting equine activities;

96 RS BR 376, relating to hunting and fishing licenses; and

96 RS BR 467, creating a seismic monitoring network.

The Committee considered 96 RS BR 208 but took no action on it.

### **Subcommittee on Agriculture**

The Subcommittee met four times during the interim as of October 31, 1995.

The following is taken from *Issues Confronting the 1996 General Assembly*.

The Subcommittee has been interested in increasing Kentucky's farm income for a long time. Going back only as far as 1984, the Subcommittee has held 22 meetings relating to efforts to increase the state's agricultural income. Also, three members of the Subcommittee went on a trade mission in 1987 with the Governor to Taiwan to encourage that foreign government to purchase Kentucky agriculture commodities.

At the meeting of the Subcommittee, May 10, 1995, the Commissioner of the Department of Agriculture, Dean of the U.K. College of Agriculture, and President of the Kentucky Farm Bureau Federation, Inc. discussed the policy recommendations of the Kentucky Agriculture Resources Development Authority which were made to the 1995 gubernatorial candidates. These policy recommendations focused on implementing *Ag. Project 2000*. The members of the Subcommittee were highly supportive of these recommendations and adopted a motion, which was subsequently approved by the full Committee, stating that they "strongly supported these recommendations, and agreed that now is the time for the General Assembly to financially support and enhance agriculture in the Commonwealth."

These recommendations are:

- Enhance the marketing system for Kentucky farm products - by restructuring the state Department of Agriculture's Division of Market Services and the Kentucky Council on Agriculture, and providing additional funding for more aggressive marketing, such as regional agriculture marketing centers and regional, national, and international trade shows.
- Sustain and enhance environmental and natural resource productivity - by appropriating additional money to the state Division of Conservation for the new cost-share program which assists farmers in implementing practices to protect soil and water quality;
- Achieve agriculture and production potential - by appropriating new funds to develop and implement agriculture programs, expand research activities, maintain facilities, and replace inoperable equipment at the departments of agriculture at the state's universities; and
- Expand agribusiness and value-added opportunities - by appropriating funds for agribusiness networks.

The estimated cost of these recommendations is about \$17.2 million in fiscal year 1996-97 and increases annually to about \$20.3 million in fiscal year 2003-04.

Several farmers from Scott County appeared before the Subcommittee and discussed their efforts to diversify farm operations. These farmers discussed their increased production of vegetables and adding value to those vegetables by making and selling pies, jellies, and jams. They emphasized the importance of adequate infrastructure and marketing in increasing the production of horticultural crops. They suggested that the property formerly known as the Bluegrass Army Depot at Avon and the Kentucky Horse Park could be useful in increasing the production and promotion of horticultural crops.

The state's honeybee industry was discussed at the Subcommittee's first meeting of the interim. The importance of the honeybee in pollinating fruits and vegetables was emphasized, as were ways to promote the honeybee industry in the state.

The members of the Subcommittee visited the state's new agricultural research farm, Pin Oak in Woodford County, for the second time. The first visit was during the 1992-93 interim. The farm contains 1,496 acres and is excellent for agricultural research. A primary mission of the farm will be animal research. The plan for the farm calls for the construction of a learning center and for areas of the farm to be devoted to beef, dairy, swine, poultry, and crops. The farm will be an operational, research, and learning farm. Several research projects are currently under way at the farm; for example, water quality, fescue toxicity, and fertilizer use. The need for state funds to develop the farm was emphasized.

## **Subcommittee on Environment**

The Subcommittee has met three times as of October 31, 1995.

This interim the Subcommittee has focused on the use of lagoons as a treatment method for sewage discharged from single-family homes.

Lagoons are used in geographical locations unsuitable for other more common sewage disposal techniques. For example, lagoons are used where heavy clay soils will not allow liquid sewage to disperse into the soil so that microbial activity can cleanse the discharge. In essence, a sewage treatment lagoon is a pond that holds sewage effluent until contaminants are removed through anaerobic activity at the bottom of the pond and aerobic activity in the upper layers of pond water.

The Subcommittee identified problems with the regulation of lagoons. Chief among these is an inadequate exercise of authority to inspect operating lagoons to ensure they are properly functioning. The state Cabinet for Human Resources is not authorized to conduct inspections of operating lagoons, while the county boards of health choose not to conduct inspections because of a lack of resources.

In response to the Subcommittee hearings on this topic, the Cabinet for Human Resources and the Division of Water in the Department for Environmental Protection conducted a study of lagoons.

The study recommendations include:

1. Distribute maintenance information for homeowners to voluntarily improve lagoon maintenance.
2. Establish a routine maintenance and operation inspection program. Such a program would use a permit as an enforcement tool to assure that lagoons are properly maintained.
3. Conduct additional studies to properly assess protective set-back restrictions from water sources or sources of contamination.
4. Require the use of open weave fencing.
5. Improve training and standardization for inspections of on-site sewage disposal systems.

In addition, officials of the Cabinet for Human Resources have convened a group of interested agency representatives that is working toward recommending statutory changes to the laws governing lagoons used for on-site sewage treatment.

The Subcommittee also received a report from the Newsprint Recycling Task Force.

The Task Force was created by House Bill 282 of the 1994 General Assembly. The goals of the Task Force were to increase demand for recycled newsprint, increase availability of the product, establish Kentucky as a reliable source of old newsprint, and advance initiatives to recycle and reuse discarded newspapers.

Conclusions drawn from the report include: (1) that creation of the Task Force helped to define the role played by the state in newsprint recycling; (2) that publishers renewed efforts to use old newsprint; and (3) that the limits of newsprint manufacturers' ability to use old newsprint were clarified.

The recommendations offered by the Task Force were that the state might use more products that contain recycled newsprint. Also, the state should not seek to locate a paper mill in Kentucky, but instead, should recruit businesses that use old newsprint.

The Subcommittee also took an opportunity to highlight the Environmental Club of Southwestern High School, located in Somerset, Kentucky. This student-run club was chosen as one of the eight outstanding environmental education programs in the state. The students explained for the Subcommittee the various club activities, including the fact that they are licensed by the federal and state governments to rehabilitate birds of prey.

### **Subcommittee on Natural Resources**

The Subcommittee did not meet this interim.

### **Subcommittee on Small Business**

The Subcommittee on Small Business met three times as of October 31, 1995, and plans to meet in November. The meetings centered on providing assistance to Kentucky's small businesses.

The first meeting was held Wednesday, March 8, 1995. This meeting was organized to inform the new Subcommittee members of the state agencies available to assist small businesses. A representative of the Air Quality Ombudsman, Office of the Secretary, Natural Resources and Environmental Protection Cabinet, explained the problems and importance of small businesses staying informed of and meeting new federal regulations. She also showed the vital and mandatory role she and the director of the Business Environmental Assistance Program (BEAP) have in assisting those businesses. Two representatives of the Cabinet for Economic Development spoke on financial incentives offered to small businesses. They spoke on tax incentives and the Kentucky Economic Development Finance Authority (KEDFA).

A representative of the Kentucky Small Business Development Center (KSBDC) network at the University of Kentucky explained that this is a university-based program which delivers services through fourteen regional centers throughout Kentucky. Each center is staffed with two people; one office manager/administrator and one field consultant. Funding (approximately \$600,000 a year) comes from the federal Small Business Administration, the Cabinet for Economic Development, the University of Kentucky, and other universities. He said services are delivered on a one-to-one confidential consulting basis to small business owners or working with other networks within Kentucky. This network includes the ADD districts, the Cabinet for Economic Development regional offices, local chambers of commerce, and community college business liaisons, particularly cooperative extension offices. Also, the KSBDC conducts regional workshops and training programs, and sponsors small business conferences. He described the various ways in which the KSBDC helps new and existing small businesses.

A representative of the Kentucky Business Environmental Assistance Program (KBEAP) said the program provides training opportunities to educate business people about the regulatory requirements of the federal Clean Air Act and the Division for Air Quality. Also, specific on-site assistance is offered to small businesses to help them determine whether they are required to obtain a permit. Services are confidential and small businesses that are not in compliance may work with KBEAP under a 90-day compliance agreement with no threat of penalties. Services are free of charge to businesses, with funding provided through emission fees collected by the Division for Air Quality.

The May 10, 1995, meeting centered on limited liability companies and their impact on Kentucky. Addressing the issue were two attorneys in private practice who explained the difference between limited liability companies (LLCs) and registered limited liability partnerships (RLLPs). An LLC provides that individual members are not responsible for the acts of the entirety. An RLLP does not protect individual partners for trade debts, but RLLPs are less complicated to set up.

One of the attorneys said LLCs are important as an alternative way to structure a business, and cited examples of small businesses which benefit from LLC structuring. He pointed out that LLCs are not appropriate for all small businesses, but have been well received in Kentucky.

The IRS proposals to change tax treatment of some of these entities were discussed. The complexity in the LLC statute is a result of federal tax classification rules. If the federal government changes those rules, a significant amount of complexity could be removed from the LLC law.

It was suggested that Kentucky's Securities Act be amended to provide for LLCs. For example, LLCs should be provided for in the organizer's exemption from registration. Also, a broker/dealer exemption was suggested for people who sell LLC membership

interests. No amendment to the Kentucky Securities Act, however, should neglect the protection of the investors and the ability of small businesses to raise capital.

The July 12, 1995, meeting centered on assisting small businesses through the Kentucky Small Business Development Center (KSBDC) network.

The representative of KSBDC referred members to a KSBDC newsletter containing the results of a study on the economic impact of KSBDC clients. For the second year in a row, Kentucky's SBDC has outpaced the national SBDC average in terms of return on investment, with Kentucky SBDC clients generating \$4.61 in new revenues for every dollar invested.

Small businesses' knowledge of the existence of KSBDC is important. The KSBDC has a small business market penetration of about ten to twelve percent. Many small businesses don't know about it because the KSBDC doesn't have adequate funding to advertise its services. With the small staff, they couldn't meet a much higher demand, although with more funding the KSBDC could possibly achieve a twenty-five percent market penetration.

The November 14, 1995, meeting of the Subcommittee will be a discussion of draft legislation to assist small businesses.

**REPORT OF THE 1994-95  
INTERIM JOINT COMMITTEE ON  
APPROPRIATIONS AND REVENUE**

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Representative Harry Moberly, Jr., Co-Chair**

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Sen. Benny Ray Bailey  
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Sen. Charlie Borders  
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Rep. Leonard Gray  
Rep. Porter Hatcher  
Rep. Bob Heleringer

Sen. Nick Kafoglis  
Rep. Jimmie Lee  
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Rep. Pete Worthington

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**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

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

The Interim Joint Committee on Appropriations and Revenue has been organized into six budget review subcommittees. Their purpose has been to review revisions to the enacted 1994-96 Budget, and monitor the budgetary operations and programs of state government, as well as analyze agency budget needs for the 1996-98 biennium.

The subcommittee members and primary staff assignments are as follows:

<b>Budget Area</b>	<b>Subcommittee Members</b>	<b>Staff Members</b>
Economic Development, Natural Resources and Tourism	Sen. Joey Pendleton, Co-Chair Rep. Rocky Adkins, Co-Chair Rep. Larry Clark Rep. Jim Callahan Rep. Lonnie Napier Sen. Fred Bradley Sen. Virgil Moore Rep. Kaye Bondurant Rep. J. R. Gray	Nancy Osborne Doug Teague Susan Dance, Secretary
Education	Sen. Gerald Neal, Co-Chair Rep. Joe Barrows, Co-Chair Rep. Kenny Rapier Rep. Ruth Ann Palumbo Rep. Anne Northup Rep. Mark Treesh Sen. Joe Meyer Sen. David Williams Rep. Tom Kerr Rep. Frank Rasche	Jerry Bailey Charles Shirley Susan Dance, Secretary

General Government,  
Finance and Public  
Protection

Sen. Walter Blevins, Co-Chair  
Rep. Mark Brown, Co-Chair  
Rep. Royce Adams  
Rep. Richard Turner  
Rep. John Stacy  
Rep. Drew Graham, Ex-Officio  
Sen. Albert Robinson  
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Rep. Mark Farrow  
Rep. Charles Nelson  
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Jim Works  
Karen Hilborn  
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Human Resources

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Rep. Paul Mason, Co-Chair  
Rep. Clarence Noland  
Rep. Leonard Gray  
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Rep. John Arnold  
Rep. Stephen Nunn  
Rep. Robert Damron

Wanda Meeks  
Cindy Schweickart  
Fonda Snyder,  
Secretary

Justice, Corrections and  
Judiciary

Sen. Charlie Berger, Co-Chair  
Rep. Ernesto Scorson, Co-Chair  
Rep. Charles Geveden  
Rep. Tommy Todd  
Sen. Kelsey Friend  
Sen. Tim Philpot  
Rep. Michael Bowling  
Rep. Adrian K. Arnold  
Rep. Jon Ackerson  
Rep. David Stengel

Steve Mason  
Sharon Cantrell  
Pat Aldridge, Secretary

Transportation

Sen. Nick Kafoglis, Co-Chair  
Rep. Pete Worthington, Co-Chair  
Rep. Danny Ford  
Rep. Porter Hatcher  
Rep. Richard Fox  
Rep. Jimmie lee  
Sen. Kim Nelson  
Sen. Barry Metcalf  
Rep. Ron Cyrus  
Rep. Fred Nesler

Steve Mason  
Fonda Snyder,  
Secretary

Ex-Officio Members:

Sen. Michael Moloney  
Rep. Harry Moberly

## **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 seven times during the 1994-95 legislative interim, as of November 1, 1995, and has been approved by the Legislative Research Commission to meet in November to take up pre-filed legislation and to review the recommendations of the Kentucky Commission on Tax Policy.

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

At its first interim meeting, May 18, 1994, the committee heard from the consulting economist for the Finance and Administration Cabinet, who projected that revenue estimates for the current fiscal year will exceed the consensus group's December 1993 forecast by \$41.2 million. Projected revenue estimates for the biennium are expected to exceed the December 1993 consensus forecast by \$36.4 million for FY 1995, and \$35.7 million for FY 1996. The revenue estimates are attributed to continued growth in Kentucky's economy and will be recurring amounts. The committee also heard from the consulting economist for the Legislative Research Commission, who presented a conservative revenue forecast, as well as an optimistic forecast. In his conservative forecast, he projected a revenue surplus of approximately \$14 million for the current fiscal year, and in his optimistic revenue surplus forecast, he estimated a surplus of approximately \$41.5 million. He predicted that a more reliable estimate could be made in June, after deposits and refunds for the month of May have been made in the individual income tax.

The committee also reviewed Revenue Cabinet administrative regulations previously found deficient by the committee during quadrennial review. Administrative regulations 103 KAR 15:040, 103 KAR 16:010, 103 KAR 16:100, 103 KAR 16:110, 103 KAR 16:120, 103 KAR 16:130, 103 KAR 16:150, and 103 KAR 17:060 were amended by the cabinet and the committee determined that they now conform to the provisions of KRS Chapter 13A. The committee determined that administrative regulation 103 KAR 16:145, previously found deficient by the committee during quadrennial review and

amended by the Administrative Regulation Review Subcommittee to correct statutory citations, now complies with the provisions of KRS Chapter 13A.

At its second meeting, on October 27, 1994, the committee heard testimony from the Executive Branch and its consultant regarding first quarter revenue receipts and revenue expectations for the next three quarters. First quarter revenue receipts for FY 1995 grew by 22.9 percent over FY 1994, due to differences in individual income tax refunds, the timing of property tax receipts, and regular lottery collections. After adjusting for these timing differences, it is estimated that the receipts for the first quarter grew at 7.1 percent. Projected revenue for the next three quarters may be as much as \$63.1 million more than previously projected, if the growth rate continues at 7.1 percent. However, the consultant urged that these projections be viewed with a degree of caution since they were being made on the basis of one quarter of actual receipts. Projected road fund collections for FY 1995 are anticipated at \$28.1 million more than previously projected.

The committee heard from the Education, Arts and Humanities Cabinet on the status of a task force created to study whether various programs throughout state government can be consolidated to benefit programs relating to the deaf and hard-of-hearing. The task force intends to provide a quality report with recommendations that will address issues confronting the deaf and hard-of-hearing in Kentucky.

The committee also heard from the Attorney General's office regarding provisions in the budget bill relating to the lapse of General Fund moneys for the Victim's Defense Fund for Child Sexual Abuse. The Attorney General's Office is proposing to expend the carry-forward funds to establish a variety of victim advocate services, primarily directed to victims of child sexual abuse offenses in each Area Development District throughout the state.

At its third meeting, on April 27, 1995, the committee heard testimony from the Director of the Administrative Office of the Courts, Chief Judge of the Jefferson Circuit Court, and the Chief Judge of the Jefferson District Court regarding the status of collecting an administrative fee to fund the Department of Public Advocacy. Collections of the fee have been very poor and are well below what was estimated, but there was some confusion about whether the fee was being designated from the general recoupment fee. Communication will be improved among the groups involved with the collection of the fee and this will result in a more uniform and consistent assessment of public advocate fees and improved collection.

The committee heard from the Executive Branch and its consultant regarding quarterly revenue receipts and projected revenue receipts for the next three quarters. General fund receipts for the third quarter of FY 1995 increased by 10.1 percent over FY 1994, due to strong performance by both the state and national economies. Projected revenue for FY 1995 may be \$44.1 million more than the June 1994 consensus revision. The consultant noted that the interim revenue estimate includes adjustments for resolved and pending court cases, the refund carryforward from FY 1993 to FY 1994, the effects of

legislation enacted during the 1994 Regular Session, the June 1994 Special Session, and the January 1995 Special Session, as well as Revenue Cabinet initiatives in compliance and enforcement and accelerated withholding collections. Projected road fund revenues for FY 1995 are anticipated to be \$46.8 million higher than FY 1994, due to higher growth in motor fuels and motor vehicle usage tax for the first three quarters.

The committee heard from the Secretary of the Finance Cabinet and the Executive Director of the Office of Financial Management and Economic Analysis regarding a budget interpretation issued by the Finance and Administration Cabinet pertaining to the utilization of debt service appropriations from the road fund. The Finance and Administration Cabinet's budget interpretation authorizes the combination of new bonds with the refunding of outstanding debt and will result in an aggregate savings in debt service over the life of the bonds of \$16.7 million. The Secretary of the Finance and Administration Cabinet also reported receiving a letter from the Secretary of the Human Resources Cabinet requesting a formal opinion on the impact of budget language on a proposal of the cabinet to amend existing contracts between the cabinet and the Bluegrass Mental Health and Mental Retardation Board, Inc. and Seven Counties Services, Inc. The Secretary of the Finance and Administration Cabinet said the budget language does not specifically prohibit this type of cooperative management, but it is essential that the Human Resources Cabinet retain control and oversight responsibilities for the two hospitals.

The committee heard from the Revenue Cabinet regarding federal retiree refunds and individual income tax refunds. As of April 25, approximately 19,418 federal retiree refunds had been processed and mailed. The net amount for refunds, excluding the 5 percent attorney fees, is \$26.6 million. Approximately 30,000 of the claims for refunds were nonrefundable, approximately 2,900 retirees submitted claims for refunds but not by the mandated deadline, and 1,000 of the requests have not been processed because additional information is needed from the taxpayer. The Deputy Secretary of the Revenue Cabinet reported that as of April 21, approximately 494,692 individual income tax returns had been processed, 39,000 less than on the same date last year. The Secretary of the Revenue Cabinet noted that although the cabinet is 39,000 behind at this particular time, they were 60,000 ahead two weeks ago. The goal is to have all refunds processed by June 30.

The committee also took up a resolution encouraging Congress to continue funding of economic development programs through the Economic Development Administration. The resolution was adopted.

At its fourth meeting, on June 22, 1995, the committee heard from the Chairman and Executive Director of the Health Purchasing Alliance on the progress of the Alliance. The Chairman of the Health Purchasing Alliance said that the Alliance was set to go into effect in mid-July and that approximately 200,000 Kentuckians will be covered. This includes citizens and businesses from the private sector, as well as all public employees who will join the Alliance in January 1996. The Executive Director of the Health

Purchasing Alliance said that the formation of the health purchasing pool will create a new market and that health care costs will eventually stabilize. Reliable high quality health care plans, expansion of managed care, and competition among health care carriers for alliance members' business should result in a successful health purchasing alliance.

The committee also heard from three judges of the Kentucky Board of Tax Appeals regarding the backlog of tax appeal cases. The Chairman of the Board of Tax Appeals said that the number of tax appeals is growing every day and that the present staff simply cannot handle the avalanche of cases. The Board would like to hire more hearing officers and clerks, but cannot do this without an increase in its annual budget.

At its fifth meeting, on August 24, 1995, the committee heard from the Revenue Cabinet regarding the use of additional funds requested by the Revenue Cabinet during the 1994 Regular Session. The funds have been successfully used to meet goals which the cabinet outlined in its comprehensive strategic plan developed in 1992. The cabinet has also expanded compliance initiatives to generate additional revenue and has developed a personnel pilot project to improve the efficiency of the tax return process. In addition, the cabinet has changed the reporting and payment thresholds and frequency of payments for employer submission of individual income tax to more closely align with the payment schedule of the IRS. The Deputy Secretary of the Revenue Cabinet reported that the expansion of compliance initiatives has generated an additional \$24 million of revenue for FY 1995. The cabinet has filled 96 of 104 authorized positions to implement a property tax compliance program, establish a fraud unit, reestablish a collections staff, and enhance the office audit staff and field audit staff. The property tax compliance program met 73 percent of its revenue goal for FY 1995 and the collections staff and enhanced office audit staff have exceeded their goals. The Secretary of the Revenue Cabinet also discussed the Business Process Reengineering (BPR) project formulated in 1992. The BPR project calls for the cabinet to document every phase of the tax return process within the cabinet, identify problem areas, and provide solutions to these problems. A study found that the percentage of value-added time in the current process is only 5 percent, with the other 95 percent of time spent in waiting or transportation. The Secretary stated that although electronic filing and other technology investments have been successful, additional technology must be implemented in order to achieve its strategic and operational goals. A representative from the Revenue Cabinet also discussed the cabinet's Personnel Pilot Project, which will offer employees opportunities for promotion through revised classification structure or higher classifications.

The committee also considered Finance and Administration Cabinet administrative regulation 200 KAR 17:050, relating to financial assistance from the federally assisted wastewater revolving fund. The committee found it to be in compliance with KRS Chapter 13A.

At its sixth meeting, on September 28, 1995, the committee was introduced to the new commissioner for the Kentucky Department of Education.

The committee heard from an LRC staff economist on the current status of the federal budget and the likely fiscal implications for Kentucky. Preliminary estimates indicate that states can expect a 9 percent reduction in funding next year and a 30 percent reduction by 2002. Of particular concern to Kentucky is the Medicaid program, which accounts for nearly one-sixth of the state's total budget. Kentucky can expect to see a reduction of approximately 0.3 percent in major federal grant money for fiscal years 1995-96.

The committee heard from the Secretary of the Transportation Cabinet regarding the International Fuel Tax Agreement (IFTA). Early this year, the Cabinet learned that in order to become a member without requiring special consideration, applications had to be submitted either on July 1, or January 1. The application process requires 120 days for IFTA to send the information to their membership for a vote upon submission of the application, and six months before membership can be established. Because the cabinet was concerned that the application would not get to IFTA in the appropriate time frame, an opinion was requested and received from the Attorney General enabling the cabinet to start the application process. The Attorney General ruled on August 25, 1995 that federal law would supersede existing state law, so the cabinet submitted its application and met the IFTA application deadlines. The Secretary said that Kentucky will continue to collect the 2 cent surtax on vehicles above 60,000 lbs. through the end of this fiscal year, so the proposed changes will not impact this current biennial budget. Last quarter's collections will actually be collected in the next fiscal year, so there will be some carry-forward into the next budget year. The advantage of being a member of IFTA is that all states will be members, and as a member, Kentucky will have access to IFTA truck company audits, which should be beneficial in the collection of taxes from interstate carriers, thereby increasing revenues.

The committee also considered Finance and Administration Cabinet administrative regulation 200 KAR 15:010, relating to the formula for allocation of private security bonds. The committee found it to be in compliance with KRS Chapter 13A.

At its seventh meeting, on October 26, 1995, the committee heard from the consensus forecasting group, which updated the revenue forecast for FY 1996, and presented preliminary revenue forecasts for FY 1997 and 1998. The Kentucky economy has remained stable, but will be impacted by changes in federal fiscal policy. The growth rate for FY 1995 was 10.9 percent, but when unusual considerations, such as corporate income tax response and high lottery sales, are extracted, the growth rate would have been about 5.5 percent. In FY 1996, the growth rate is expected to drop to around 2.2 percent, and the growth rate in FY 1997 and 1998 is estimated to be 4.1 percent and 4.4 percent respectively.

The committee heard from the Secretary of the Finance and Administration Cabinet, the Deputy State Budget Director, the Commissioner for Facilities Management, and the Executive Director of the Office of Financial Management and Economic Analysis regarding the status of authorized construction projects. The Finance and Administration

Cabinet will soon be selling \$150 million in bonds to finance fifty state park projects, expansion of the Commonwealth Convention Center in Louisville, the construction of the Northern Kentucky Convention Center, and the construction of the Kentucky History Center in Frankfort. Renovation on six park lodges will begin this fall, and renovation on the remaining lodges, except for Lake Barkley, will be completed by the spring of 1997. The renovation on the lodge at Lake Barkley must be completed in two phases, and is expected to be completed in the spring of 1998. The design on the Northern Kentucky Convention Center is expected to be completed by February 1, 1996, and the project is expected to be completed in September of 1998. Groundbreaking has occurred for the Kentucky History Center, and the project should be completed by April of 1998. Progress on the Commonwealth Convention Center in Louisville is going a little slow, as there is a controversy in Louisville regarding the rerouting of traffic around Third Street. A task force has been formed to resolve the problem. The Secretary of the Finance and Administration Cabinet said that a deadline has been set for a solution, and that if the cabinet does not get a written commitment from every party involved in a timely fashion, the project will be withdrawn.

The committee heard from a representative of the Department of Personnel regarding health and life insurance for state employees. In 1981, the state provided \$5,000 worth of life insurance for every employee, and in 1988, this was raised to \$6,500. In the last few years, studies have shown that Kentucky's level of life insurance has been lacking. This year, the state secured a bid of 14 cents per thousand for life insurance, much better than in 1981, when the state paid 21 cents per thousand. This allowed the state to raise the life insurance benefit to \$20,000 per state employee and teacher this year. The representative also discussed 1994 House Bill 250 and its effect on the state contribution for health insurance. Every employee and teacher is entitled to the same dollar amount, and the budget allowed for a monthly contribution of \$175.50 per state employee and teacher. An employee or teacher is able to put the \$175.50 towards single, couple, single plus children, or family coverage. If the health insurance selected is less than \$175.50, the employee or teacher is able to put the balance in a flexible spending account to be used for health care expenses.

The committee heard from the Executive Director for the Kentucky Health Purchasing Alliance regarding the status of the health care alliance. The alliance has been operational for three months and is now focusing on bringing in the public sector employees beginning in January 1996. The alliance is expected to have over 200,000 public employees enrolled by the end of 1996. The challenge for the alliance is to achieve and maintain affordable rates, and to do so, public employee membership is critical for negotiating power. The alliance must provide the incentive for employees to migrate to cost-effective plans. The alliance must also recruit accountable health plan carriers who effectively manage their costs.

The committee heard from representatives from the Kentucky Education Association, state universities, and cities and counties regarding how joining the health purchasing alliance will affect them. All agreed the higher family rates were a concern. The

representatives from state universities said that the changes were basically a budget cut. Most of the universities have insurance committees in place which have aggressively negotiated for better rates. All of the university representatives testified that contribution rates will be higher and service will be less. City and county representatives expressed concern about higher rates and lower benefits.

The committee also took up a resolution which would ask the Health Purchasing Alliance to examine the rates again, now that the alliance has hired actuaries to help them with the negotiations and to review the rates. The resolution was adopted.

### **Subcommittee Activity Justice, Corrections, and Judiciary**

The Budget Review Subcommittee on Justice, Corrections, and Judiciary met five times during the 1994-95 interim. During the first subcommittee meeting, staff gave an overview of the FB 1994-96 Justice Cabinet and Judicial Branch budgets. Other topics discussed during the interim included the juvenile justice system in Kentucky; the status of FB 1994-96 Justice Cabinet additional funding items; and construction costs/savings associated with building public/private adult and juvenile correctional facilities. Discussions related to the juvenile justice system in Kentucky included system infrastructure, juvenile treatment programs, continuum of care, and basis for national increase in violent juvenile crime rates.

In the FY 1994-95 interim, fifteen Department of Corrections appropriation adjustment requests, totaling \$1,855,200 (\$1,283,800 Restricted Funds and \$571,400 Federal Funds) were approved. In the FY 1995-96 interim, twelve Department of Corrections appropriation adjustment requests, totaling \$5,271,900 (\$4,078,900 Restricted Funds and \$1,193,000 Federal Funds) were approved. The above interim appropriation adjustment requests are summarized below:

**Department of Corrections**

**Appropriation Adjustment Amount  
By Fund Source Fiscal Year  
(Number of AIs)**

<b>Appropriation Unit</b>	<b><u>FY 1994-95</u></b>		<b><u>FY 1995-96</u></b>	
	<b>Restricted</b>	<b>Federal</b>	<b>Restricted</b>	<b>Federal</b>
Adult Institutions (FY 1994-95 AIs = 6) (FY 1995-96 AIs =5)	\$1,219,500	\$287,600	\$3,700,000	\$687,200
Corrections Management (FY 1994-95 AIs =3) (FY 1995-96 AIs =3)	12,700	121,700	109,300	85,000
Community Services and Local Facilities (FY 1994-95 AIs =6) (FY 1995-96 AIs =4)	51,600	162,100	269,600	420,800
<b><u>TOTAL BY FUND SOURCE</u></b> (FY 1994-95 Total AIs = 15) (FY 1995-96 Total AIs = 12)	\$1,283,800 (6)	\$571,400 (9)	\$4,078,900 (5)	\$1,193,000 (7)

Justice Operations consists of the Justice Administration, the State Police, and the Criminal Justice Training appropriation units. In the current biennium, six appropriation increase requests were approved in FY 1994-95, and seven (to date) have been approved in FY 1995-96 by the Interim Joint Committee on Appropriations and Revenue. Those requests are summarized below by appropriation units:

**Justice Operations**

**Appropriation Adjustment Amount  
By Fund Source Fiscal Year  
(Number of AIs)**

<b>Appropriation Unit</b>	<b><u>FY 1994-95</u></b>		<b><u>FY 1995-96</u></b>	
	<b>Restricted</b>	<b>Federal</b>	<b>Restricted</b>	<b>Federal</b>
Justice Administration (FY 1994-95 AIs = 4) (FY 1995-96 AIs =3)	\$447,600	69,700	\$1,429,200	\$226,100
State Police (FY 1994-95 AIs =2) (FY 1995-96 AIs =4)	300,000	2,174,100	2,310,700	1,100,000
<b><u>TOTAL BY FUND SOURCE</u></b> (FY 1994-95 Total AIs = 6) (FY 1995-96 Total AIs = 7)	\$747,600 (3)	\$2,243,800 (3)	\$3,739,900 (5)	\$1,326,100 (2)

## Human Resources

The Budget Review Subcommittee on Human Resources met five times during the interim and plans to have one additional meeting prior to the 1996 Session.

Per 1994 Special Session House Bill 2, Human Resources budget revisions resulted in \$280.2 million above the Enacted Budget in FY 1994-95. This consisted of \$38 million from the General Fund, including Family Youth Resource Center dollars budgeted in the Department of Education, \$32.6 million in carry forward dollars authorized in the Enacted Budget, and some transfers between departments to maximize/draw additional Medicaid dollars; \$84.9 million Restricted Funds, of which \$73.6 million were Medicaid and/or Medicaid program related dollars; and \$157.3 million in Federal Funds, of which \$133.2 million were in the Department of Medicaid Services.

The net effect on each department is as follows:

	<u>FY 1994-95</u>	<u>FY 1995-96 as of 10/95</u>
Administration and Program Support, including		
Family Youth Resource Centers	\$34,700,100	\$1,381,500
Social Services	7,161,200	720,400
Mental Health/Mental Retardation	6,929,800	11,460,000
Commission for Children with Special Health Care Needs	1,966,000	428,400
Health Services	12,888,400	361,500
Medicaid-Administration	125,000	12,319,900
Medicaid-Benefits	203,233,500	-0-
Social Insurance-Administration	7,334,400	7,461,000
Social Insurance-Benefits	4,418,200	-0-
Employment Services (prior to transfer to Workforce)	1,314,300	-0-
Health Policy Board	150,000	-0-

The General Fund dollar decreases which contributed to the General Fund Surplus are not reflected in the above net changes.

Most meetings included discussions/presentations related to the Medicaid program, including provider taxes, reimbursement rates, eligible growth projections, proposed changes and waivers, Medicaid program in Tennessee, FB 1996-98 funding projections, Medicaid Section 1115 waiver amendment (Partnerships waiver), and UNISYS contract. Other topics discussed included: Child Victim Defense Fund Grants (Victim Advocacy) and personal service contracts. Additional topics to be addressed during the interim include Supported Living/Employment and Kentucky Homeplace (Community Health Advisory program) and second reviews of the Victim Advocacy program/grants and UNISYS contract.

## Education

The Budget Review Subcommittee on Education has met four times during the interim, including a joint hearing with the Governance and Finance Subcommittee of the Interim Joint Committee on Education.

The subcommittee has discussed various components of the Kentucky Education Reform Act (KERA), including rewarded schools and districts resulting from the 1992-94 Biennial assessment tests, distribution and fund balances of the SEEK (Support Education Excellence in Kentucky) Fund; and funding for Kentucky's Preschool Programs. The subcommittee also reviewed the Requests for Proposals (RFPs) to Implement the Kentucky Instructional Results Information System (KIRIS) Assessment and Accountability Program for the Commonwealth of Kentucky for the period 1996-2000. The subcommittee heard testimony from state agency and local officials regarding the funding and operations of Kentucky's Day Treatment Programs, and the relationship with the Kentucky Education Collaborative for State Agency Children (KECSAC).

The subcommittee conducted public hearings in Paducah and Murray, Kentucky, regarding the need for an engineering program in Western Kentucky. Public comment was heard from local officials, community members, students, and educators of the Paducah Community College and Murray State University.

The subcommittee also reviewed sixty-nine requests for interim appropriations increases totaling approximately \$51.4 million during the 1994-95 interim. These requests are as follows:

<b>FY 1994-95</b>				<b>Total #</b>
<b>Cabinet/Department</b>	<b>Restricted</b>	<b>Federal</b>	<b>Total</b>	<b>Requests</b>
Education, Arts, & Humanities	80,000	205,800	285,800	8
Department of Education	2,344,700	1,799,700	4,144,400	8
Workforce Development Cabinet	1,574,400	4,221,500	5,795,900	6
Higher Education	50,000	936,000	986,000	3
<b>Totals - FY 1994-95</b>	<b>4,049,100</b>	<b>7,163,000</b>	<b>11,212,100</b>	<b>25</b>
<b>FY 1995-96</b>				
Education, Arts, & Humanities	1,916,000	909,500	2,825,500	18
Department of Education	300,000	17,736,200	18,036,200	9
Workforce Development Cabinet	5,036,200	10,883,800	15,920,000	13
Higher Education	1,550,300	1,864,300	3,414,600	4
<b>Totals - FY 1995-96</b>	<b>8,802,500</b>	<b>31,393,800</b>	<b>40,196,300</b>	<b>44</b>
<b>Grand Totals - 1994-95 Interim</b>	<b>12,851,600</b>	<b>38,556,800</b>	<b>51,408,400</b>	<b>69</b>

## General Government, Finance and Public Protection

The Budget Review Subcommittee on General Government, Finance and Public Protection held four meetings during the interim. The following appropriation increases/decreases were either approved by the subcommittee or were automatically approved because the subcommittee or the Appropriations and Revenue Committee did not meet.

	<b>FY 1994-95 Amount</b>	<b>Number</b>	<b>FY 1995-96 Amount</b>	<b>Number</b>
General Fund	\$63,276,362	21	\$55,352,300	16
Restricted Funds	8,943,585	31	13,985,100	45
Federal Funds	39,000,200	12	56,427,800	14

The increases/decreases by Cabinet are as follows:

<b>Cabinet</b>	<b>FY 1994-95 General Fund</b>	<b>Restricted Funds</b>	<b>Federal Funds</b>
<b>General Government</b>			
Office of Governor			\$13,000
Registry of Election Finance	3,600,000		
Department of Law		800,000	
UPS Commonwealth		208,100	
UPS County	46,850		
Agriculture		424,100	22,600
Military Affairs - Operations	2,060,500	1,698,700	(1,698,700)
Military Affairs - DES	2,000,000		15,000,000
Personnel Board		3,200	
Local Government		317,785	300,000
Miscellaneous Appropriations	54,325,000		
Commission on Human Rights			151,400
Department of Treasury	192,000		
Auditor of Public Accounts		179,800	
Boards and Commissions		308,400	
<b>Finance &amp; Administration</b>			
General Administration	27,012	850,000	24,995,600
Geographic Information System		101,000	
County Costs	1,025,000	377,000	
<b>Public Protection &amp; Regulation</b>			
Department of Public Advocacy		350,000	101,300
Public Service Commission		17,500	55,000
KY Racing Commission		3,308,000	
<b>Labor</b>			
Workplace Standards			60,000

<b>Cabinet</b>	<b>FY 1995-96 General Fund</b>	<b>Restricted Funds</b>	<b>Federal Funds</b>
<b>General Government</b>			
Office of Governor			
Department of Law		1,505,600	75,000
UPS Commonwealth	82,200	360,000	11,700
UPS County	49,500	120,000	
Agriculture		171,800	23,400
Military Affairs - Operations	680,500	4,715,700	(780,700)
Military Affairs - DES	2,871,000		13,825,000
Department of Treasury	176,600		
Capital Plaza Authority		135,000	
Miscellaneous Appropriations	50,235,000		
Human Rights Commission			72,800
Personnel (General Operations)		156,000	
Personnel (Deferred Compensation)		1,040,000	
Boards and Commission		826,100	
<b>Finance &amp; Administration</b>			
General Administration	57,500	50,000	42,877,600
Administration		1,030,000	
Geographic Information System		114,900	
County Costs	1,200,000	377,000	
<b>Public Protection &amp; Regulation</b>			
Department of Public Advocacy			189,800
Public Service Commission			73,200
Alcoholic Beverage Control		5,000	
KY Racing Commission		3,308,000	
<b>Labor</b>			
Workplace Standards			60,000
KY Occupational Safety & Health		70,000	

The Subcommittee also met jointly with the Budget Review Subcommittee on Economic Development, Natural Resources, and Tourism and the Special Subcommittee on Energy to discuss energy conservation in state owned buildings.

### **Economic Development, Natural Resources, & Tourism**

The Budget Review Subcommittee on Economic Development, Natural Resources, and Tourism has held six meetings during the 1994-95 interim from October, 1994, through October, 1995.

The subcommittee reviewed and approved 25 requests for restricted funds appropriation increases totaling \$22,014,100 and 15 requests for federal funds appropriation increases totaling \$3,642,100. The increases by Cabinet and fiscal year are as follows:

<b>1994-95 Appropriation Increases</b>			
<b>Cabinet</b>	<b>Number of Requests</b>	<b>Restricted Funds</b>	<b>Federal Funds</b>
Economic Development	2	\$70,000	
Natural Resources*	6	2,529,700	164,300
Tourism	5	570,000	37,100
<b>Totals</b>	<b>13</b>	<b>3,169,700</b>	<b>201,400</b>

\*Petroleum Storage Tank Commission represents \$2,386,400 of the restricted funds.

<b>FY 1995-96 Appropriation Increases</b>			
<b>Cabinet</b>	<b>Number of Requests</b>	<b>Restricted Funds</b>	<b>Federal Funds</b>
Economic Development	4	\$346,700	\$400,000
Natural Resources*	18	17,468,200	2,933,600
Tourism	5	1,029,500	107,100
<b>Totals</b>	<b>27</b>	<b>18,844,400</b>	<b>3,440,700</b>

\*Petroleum Storage Tank Commission represents \$12,241,900 of the restricted funds.

Topics have included discussions with all three Cabinets regarding updates on specific programs, appropriation increase requests, quarterly reports, and interim organization changes.

The Economic Development Cabinet provided the subcommittee with an update of the various incentive programs, the Local Government Economic Development Fund, the Coal Education program, the progress of the Cabinet's Strategic Plan, potential budgetary issues for FB 1996-98, and other various program functions within the Cabinet.

The Natural Resources Cabinet provided an October, 1994 status report of the Petroleum Storage Tank Fund Commission. Two 1995 Cabinet reorganizations were discussed: in February, the Department of Law was reconstituted as a Legal Services Office in the Secretary's Office, its organizational structure prior to FY 1991; and the Information Services Office was created in October. Implementation of budget language authorizing new foresters for forest stewardship and sustainability programs as Surface Mining resources became available due to field office consolidation or program reductions was reported. As its top budget issues for FB 1996-98, the Cabinet identified forestry, information technology, and consolidation of its 26 leased office spaces in Frankfort.

The Tourism Cabinet made presentations on the Park Revitalization Bond projects, the Electronic Billboards, Kentucky Crafts within the Parks Gift Shops, miscellaneous personnel upgrades, the Advertising Campaign and potential issues to be addressed by the

1996 General Assembly. The subcommittee also received a presentation regarding the Eastern Highlands-North Tourism Commission.

The Kentucky Heritage Land Conservation Fund, which impacts all three Cabinets, was discussed at the June, 1995 meeting.

A special meeting was held in October, 1995, to review the implementation of the Cabinets' 1996-98 capital projects budget and to discuss capital projects requests that may come before the 1996 General Assembly.

### **Transportation**

The Budget Review Subcommittee on Transportation met seven times during the 1994-95 interim. Discussion at these meetings centered around three main themes: First, the subcommittee exercised its oversight responsibility over the FB 1994-96 Transportation Cabinet budget, as it relates to compliance and the implementation of that budget. Secondly, the subcommittee discussed the various implications of Kentucky's compliance/noncompliance with the federally mandated International Fuel Tax Agreement (IFTA). Particular emphasis was placed on the potential Road Fund revenue loss that has been associated with this program. And lastly, the subcommittee discussed the statutory allocation process for the appropriation of Rural Secondary Program moneys, along with the project selection process. This discussion was spurred by the subcommittee's interest in ensuring that the \$50 million Road Fund appropriation (from the 1995 Extraordinary Session) was allocated to projects in a timely manner.

Pursuant to House Bill 2 (appropriations act), the subcommittee received seven appropriation increase requests in FY 1994-95 and eight in FY 1995-96 (to date) to the Transportation Cabinet budget. The results of their actions follow:

		<b>Fiscal Year 1994-95</b>		
<b>Appropriation Unit</b>		<b>Enacted</b>	<b>Revision</b>	<b>Revised Appropriation</b>
<b>Vehicle Regulation</b>				
	Federal	962,900	462,900	1,425,800
	Restricted	1,714,800	65,000	1,779,800
<b>Highways</b>				
	Federal	312,712,000	2,695,100	315,407,100
<b>Public Transportation</b>				
	Federal	3,829,500	1,690,000	5,519,500
<b>Air Transportation</b>				
	Federal	17,000	23,500	40,500
<b>Rail Transportation</b>				
	Federal	175,000	200,000	375,000

**Fiscal Year 1995-96**

<b>Appropriation Unit</b>	<b>Enacted</b>	<b>Revision</b>	<b>Revised Appropriation</b>
<b>Vehicle Regulation</b>			
Federal	992,700	505,500	1,498,200
Restricted	1,745,400	61,800	1,807,200
<b>Public Transportation</b>			
Federal	3,840,000	922,100	4,762,100
<b>Air Transportation</b>			
Federal	17,600	350,000	367,600
<b>Rail Transportation</b>			
Federal	175,000	261,000	436,000

In addition to the above, the subcommittee discussed and approved a Road Fund appropriation increase of \$12.2 million to cover the costs of various actual/potential court judgments.

**REPORT OF THE 1994-95  
INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE**

**Representative Billy Ray Smith, Co-Chair  
Senator Larry Saunders, Co-Chair**

Sen. Walter Blevins  
Sen. Fred Bradley  
Sen. Lindy Casebier  
Sen. Paul Herron, Jr.  
Sen. Richard Roeding  
Rep. Jon Ackerson  
Rep. Eddie Ballard  
Rep. James Bruce  
Rep. Brian Crall  
Rep. Mark Farrow  
Rep. Elbert Hampton  
Rep. Marshall Long  
Rep. Frank Rasche  
Rep. Arnold Simpson  
Rep. Mark Treesh

Sen. Charlie Borders  
Sen. Tom Buford  
Sen. Jeff Green  
Sen. Barry Metcalf  
Sen. Tim Shaughnessy  
Rep. Ray Altman  
Rep. Sheldon Baugh  
Rep. Stan Cave  
Rep. Herbie Deskins  
Rep. James Gooch  
Rep. Porter Hatcher  
Rep. Ramsey Morris  
Rep. Steve Riggs  
Rep. Dave Stengel

LRC STAFF: Greg Freedman, Judy Fritz, Jamie Griffin

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

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

### COMMITTEE ACTIVITY

The Interim Joint Committee on Banking and Insurance met eight times during the 1994-95 Interim. The Committee met twice in 1994, on September 12 and November 22, and the Committee met six times in 1995, on April 25, May 30, June 27, August 22, September 11, and October 24. All meetings were held in Frankfort except for the September 11 meeting, which was held in Lexington in conjunction with the Annual Kentucky Bankers Association Convention. No Subcommittees were appointed during the Interim.

#### Insurance

**Health Insurance.** The Committee discussed at three meetings the health insurance reforms in HB 250, enacted by the 1994 General Assembly. Testimony was given by representatives of the Department of Insurance, the Kentucky Health Maintenance Organization of Kentucky, the largest health insurers in the state, the Health Policy Board, and the Health Purchasing Alliance. In November, 1994, State Farm testified on its decision not to renew health insurance coverage for its 6000 policyholders in Kentucky. The insurer cited several health insurance reforms as factors in its decision, but admitted health insurance was sold primarily as an accommodation to its auto and homeowners policyholders and that Kentucky was the seventh or eighth state from which the insurer had decided to withdraw. Seven months later, in June, 1995, the Committee heard testimony from the Department of Insurance that five small insurers had joined State Farm in leaving the state. However, thirty-two new insurers and four new HMOs had been licensed to do business in Kentucky since HB 250 became effective in July, 1994. There were 461 insurers and 14 HMOs writing health insurance in Kentucky in June, 1995.

The Health Policy Board testified in November, 1994, that it had created a 27-member advisory committee to develop the standard benefit plans and the Board had sent out request for bids for services from consulting firms. Insurers and HMOs expressed concern about avoiding any drastic disruption to the market and the short period of time between final approval of plans and the selling of the plans. In June, 1995, the Board returned and testified that it had approved four standard plans on January 26, received

comments from the Department of Insurance on March 1, and given final approval to the plans on March 25, 1995. The Executive Director of the Alliance said the Alliance was on target to be up and running on July 17, had hired a core staff, and contracted with a third party administrator. Insurers and HMOs also returned in June and testified that there was concern about the need to approve forms and rates, that some insureds were unhappy not to have customized policies, that some groups questioned whether they would continue to benefit from discounts, and that they were conducting public forums and seminars to educate insureds and agents.

The Committee discussed the health insurance issue for a final time during the Interim at its meeting in October, 1995. The Commissioner of the Department of Insurance testified that as of that date only one insurer's non-Alliance rates had been approved for 1996. Higher rates being quoted to insureds were simply rates the insureds were seeking; they were not approved rates. The Commissioner announced that the Department had contracted with a firm to develop rate parameters and would review all rates carefully before giving approval for their use. The Commissioner stated that the Department has the final say on rates.

**Kentucky Central.** The Committee discussed with the Department of Insurance the failure and sale of Kentucky Central Life Insurance Company at two meetings. In May, 1995, the Commissioner of Insurance said the Supreme Court of Kentucky on May 11 had upheld the Department's actions and the Department was working toward a June 30 closing of the sale of Kentucky Central to Jefferson-Pilot. In October, 1995, the Commissioner gave the Committee an update on the Kentucky Central liquidation. He testified that on May 31 the Department had closed out sale of policies to Jefferson-Pilot. This required that \$110 million be borrowed and an additional \$38 million was borrowed short-term from Jefferson-Pilot. The loan from Jefferson-Pilot has been paid back but the \$110 million remains outstanding. There are about \$300 million in assets, which include \$33 million in mortgages, \$70 million in real estate, \$44 million in stock, \$51 million in bonds, and \$108 million in other assets. He also said 1700 claims had been filed against the company by shareholders, a bank, auditors, agents, a local government, the board of directors, and others. The Department has filed suits against several entities and it could be 5 to 8 years before matters are settled.

**Other Issues.** The *Insurance Fraud Unit* was created by legislation enacted in 1994. The Department of Insurance testified in May, 1995 that it had established the unit in January, 1995 and it had two investigators, an attorney, and two support staff. Since its creation, it had sent five cases to prosecutors and one indictment had been returned. The unit works closely with the FBI and State Police. Auto insurance and workers' compensation are the two segments of the industry where fraud is most prevalent. Testimony from *auto insurers* revealed that although premiums had increased from 1987-1992 by 36 percent in Kentucky and the average Kentucky premium was \$583.30 in 1992, Kentucky was one of fourteen states in 1993 that showed an operating loss for private passenger liability coverages. The loss in Kentucky was minus 5.1 percent of earned premium. Physical damage coverage, however, showed a gain of 5.6 percent. Farm

Bureau testified that it had not shown a profit in automobile insurance in any of the last ten years. In the last three years the losses by Farm Bureau amounted to \$18.5 million.

## **Financial Institutions**

**Interstate Banking and Branching.** The Committee discussed the Riegle-Neal Interstate Banking and Branching Efficiency Act in September, 1994, with the General Counsel to U.S. Senator Wendell Ford, and again in April, 1995, with representatives of the Kentucky Bankers Association. The *interstate banking provisions* of the federal Act allow for bank holding companies to acquire banks in any state one year after enactment. The *interstate branching provisions* of the Act provide that beginning on June 1, 1997, bank holding companies may consolidate two or more subsidiary banks into a single bank with out-of-state branches, unless a state has opted out of interstate branching prior to that date. Also, beginning on June 1, 1997, a bank may engage in a merger transaction with an out-of-state bank and convert any offices into branches of the resulting bank, or may acquire a branch and not the rest of the bank, unless a state has opted out of interstate branching. A bank may establish and operate a de novo branch bank in a state other than the bank's home state if the bank's home state expressly permits by law all out-of-state banks to establish de novo branches in the state. Foreign banks may branch interstate only by acquisition, unless the state allows de novo branching for all banks. The 1996 General Assembly can opt-in, opt-out, or do nothing with regard to the Federal law. To opt-in would allow out-of-state banks that acquire Kentucky banks to convert them to branches prior to June 1, 1997. To opt-out would prohibit banks that acquire Kentucky banks from converting them to branches, but it would also prohibit Kentucky banks that own out-of-state banks from converting those banks to branches. To do nothing would mean Kentucky accepts the Federal Act and as of June 1, 1997, banks could be converted to branches.

**Bank Shares Tax.** The Committee discussed the banks shares tax at its meeting in April, 1995 with representatives of the Kentucky Bankers Association. The tax has been used in Kentucky since the turn of the century. It is not a property tax on the bank or its property, but is a tax on the intangible property owned by shareholders. However, the tax is paid by the bank as the representative of the shareholder. The method for determining the fair cash value of the stock is set out in the statutes, but there is a provision that allows the Revenue Cabinet in "any extraordinary case" to use "other recognized criteria." The Revenue Cabinet has questioned whether the statutory method produces the fair cash value. Another problem is that under the federal branching law it appears the state and local governments would lose revenues if out-of-state banks convert Kentucky banks to branches of out-of-state banks.

**Other Issues.** The Committee discussed with the Acting Commissioner of the Department of Financial Institutions legislation that may be proposed by the Department. The draft addresses the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, the transfer of trust accounts between affiliated banks, and between mobile banks, and other matters. At its October, 1995 meeting, the Committee heard testimony from a

small business owner and representatives of banks on the bank charge on merchants on purchases by debit *cards*. The merchants do not object to a charge by banks on credit card purchases since the merchants benefit by the extension of credit by the bank to the purchaser. However, debit cards do not involve an extension of credit, since the purchase price is debited from the purchaser's checking account.

**REPORT OF THE 1994-95  
INTERIM JOINT COMMITTEE ON  
ECONOMIC DEVELOPMENT AND TOURISM**

**Senator Bob Leeper, Co-Chair  
Representative Tom Kerr, Co-Chair**

Sen. David Boswell	Sen. Kelsey Friend
Sen. Mike Moloney	Sen. Virgil Moore
Sen. John D. Preston	Sen. Albert Robinson
Sen. Julia Rose	Sen. Dan Seum
Sen. Tim Shaughnessy	Sen. David Williams
Rep. Royce W. Adams	Rep. Eddie Ballard
Rep. Kaye Bondurant	Rep. Mike Bowling
Rep. Lawrence Brandstetter	Rep. Dwight Butler
Rep. Jack Coleman	Rep. Brian Crall
Rep. Jesse Crenshaw	Rep. Ron Cyrus
Rep. Robert Damron	Rep. Bobby DeWeese
Rep. Drew Graham	Rep. H. "Gippy" Graham
Rep. J. R. Gray	Rep. Kathy Hogancamp
Rep. Gross Lindsay	Rep. Marshall Long
Rep. Jim Lovell	Rep. Jim Maggard
Rep. Mary Lou Marzian	Rep. Richard Murgatroyd
Rep. Lonnie Napier	Rep. Charles Nelson
Rep. Steven Riggs	Rep. Richard Sanders, Jr.
Rep. William Scott	Rep. Dave Stengel
Rep. Katie Kratz Stine	Rep. Charlie Walton
Rep. James Zimmerman	

LRC Staff: Gordon Mullins, Linda Kubala, Mary Yaeger, Mary Lynn Collins, John Buckner, Terisa Roland, and Jessie Sue Simpson

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



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

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

### **COMMITTEE ACTIVITY**

Prior to the 1995 Organizational Session, economic development and tourism were the jurisdictional matters of two committees, the Interim Joint Committee on Economic Development and the Interim Joint Committee on Tourism, respectively. Detailed reports on economic development and tourism matters discussed by these committees are available in the Mid-Interim Committee Reports. Prior to January, 1995, the Interim Joint Committee on Economic Development met three times: September 22, 1994; October 20, 1994; and December 15, 1994. The September meeting was a joint meeting with the Joint Committee on Tourism, at which time the committees heard testimony on the proposed expansion of the Commonwealth Convention Center in Louisville and testimony on the proposed Northern Kentucky Convention Center to be built in Covington. The October meeting included discussion of the Kentucky Economic Development Strategic Plan that is mandated by 1992 House Bill 89. The December meeting included discussion of the Kentucky Economic Development Partnership by the immediate past chairman of the Partnership Board of Directors, and a presentation of the 1993-94 Annual Report of the Bluegrass State Skills Corporation.

The Interim Joint Committee on Economic Development and Tourism, established in January, 1995, held five meetings from March, 1995 through October, 1995. Although the LRC created a Task Force on Economic Development as a subcommittee of the joint committee, the subcommittee was never activated by the committee, since all economic development matters were handled by the committee.

The fourth meeting of the Interim Joint Committee on Economic Development and Tourism included a presentation on the quarterly progress report on the state's economic development strategic planning process by the Secretary of the Cabinet for Economic Development and his staff, and a presentation by the Secretary of the Education, Arts and Humanities Cabinet and representatives of the Tourism Cabinet regarding a proposed cultural economic initiative by which the state would provide small planning grants to

selected communities to help those communities identify cultural assets and resources and to development strategic plans to implement activities and proposals to increase cultural tourism throughout the Commonwealth. In addition to the cultural economic development initiative, the committee also heard testimony from officials of the Tourism Cabinet regarding the strategic planning efforts of the cabinet. It was reported that the cabinet had requested funding from the U.S. Economic Development Administration for the purpose of crafting a Tourism Master Plan for Kentucky. The Cabinet spokesperson, who is assisted by the University of Kentucky Center for Business and Economic Research, stated that he was hopeful that a final draft of the plan would be completed by September, 1995.

The fifth meeting of the committee was held April 20, 1995, at which time the chairman and vice-chairman and other members of the board of the Kentucky Wood Products Competitiveness Corporation reported on the progress with implementing House Bill 561 (1994). It was reported that the corporation had hired an executive director and that an office had been provided at Eastern Kentucky University. The chairman of the board explained that under House Bill 561, the corporation would assist the state's secondary wood products contractors with procurement of state and federal contracts, develop, in conjunction with state post-secondary institutions, education and training components deemed appropriate by the private sector, and serve as an information clearing house for companies in the wood products industry. Questions were asked regarding conversion of the Quicksand Wood Utilization Center into the training and products development hub envisioned by House Bill 561. Also, the committee questioned the speakers about the impact of Kentucky's workers' compensation law on the future growth of the wood products industry in Kentucky. The chairman of the corporation noted that Indiana and Tennessee had developed a strong furniture market and that earnings from the wood products industry were much greater in these states than in Kentucky, although Kentucky had greater forest acreage than Indiana or Tennessee. Much of the problem in Kentucky is the higher workers' compensation rates, which are purported to be three times greater than in other states. Lack of training and technical assistance also were cited as barriers to growth in Kentucky.

Additional comments were made about the lack of forest management practices by many owners of forested land. Suggestions were made to increase the number of foresters and to mandate greater involvement by county agricultural agents in providing technical assistance regarding forest management to woodlands' owners.

The sixth meeting of the committee was held on August 17, 1995, at which time the committee reviewed two administrative regulations submitted by the Cabinet for Economic Development: 307 KAR 4:010, an administrative regulation respecting the Kentucky Industrial Development Tax Credit Program, as set forth in KRS 154.29-010 through 154.28-090; and 207 KAR 1:030, an administrative regulation respecting the Kentucky Rural Economic Development Tax Credit Program, as set forth in KRS 154.22-010 through 154.22-070. After considerable discussion, the committee amended 307 KAR 4:010 (5)(1)(c), without objection of the cabinet, to state that "full-time" shall mean a work week of not less than thirty-five hours, and amended 307 KAR 1:030 (5) and 307

KAR 4:010 (5) to provide that "skilled jobs" shall have the same meaning as that term has when used by the federal Division of Labor and Workforce Training and as set forth in the staff report. Pursuant to a recommendation of the Administrative Regulations Subcommittee, the committee also directed that legislation be drafted to amend KRS 154.22-010(9) to include "limited liability companies" and "limited liability partnerships" in the definition of "eligible company." After further discussion, 307 KAR 1:030 and 307 KAR 4:010 were approved as amended.

The next order of business at the August meeting was discussion of the use of a portion of E. P. Tom Sawyer State Park in Louisville by the River City Radio Controllers Flying Club. It was reported by club representatives that the club has been asked to vacate the area after twenty-three years of use because of objections by developers of land adjoining the park property. After a lengthy discussion, the Commissioner of the Kentucky Department of Parks and the Department's General Counsel explained the state's position. At this point the Commissioner indicated that his office had not been informed of a different proposal for relocating the club's facilities within the park. The Commissioner stated that he would visit the property and that he would hope to work out an agreement acceptable to all parties.

Although it was not discussed in detail, the chair directed the committee's attention to the staff report on 1994 Senate Concurrent Resolution 86, (A CONCURRENT RESOLUTION directing the Interim Joint Committee on Economic Development and Tourism to study workforce training programs in Kentucky). The report covers three major issues: coordination of post-secondary training and education programs making them more effective with a minimal amount of duplication; making programs more flexible for students moving from one program to another institution, including transferability and articulation agreements; and understanding whether a particular course of study is consistent with those needs and demands of the marketplace. Detailed review of this report was deferred until the September, 1995 meeting.

The seventh meeting was held September 19 and 20, 1995, at the Kentucky Dam State Resort State Park and the Paducah Information Age Park. This two-day meeting included discussion of the workforce training report, prepared by staff in response to the directives of Senate Concurrent Resolution 86 (1994), directing the Interim Joint Committee on Economic Development and Tourism to study workforce training programs in Kentucky including all post secondary programs not requiring a baccalaureate degree, i.e., vocational-technical programs operated by the Kentucky Tech System and associate degree programs offered by the University of Kentucky Community College System and other public state colleges and universities. Excluded from the study are private colleges and universities and proprietary schools. All fifteen community colleges (including the twin campuses of the Jefferson Community College), seventy-seven Kentucky Tech schools (including the fifty-four Area Vocational Education Centers), and the seven universities (excluding the University of Kentucky, which does not offer associate degree programs) were included in the study. The findings of the report are that there are 2,529 program offerings under 292 separate names; of those, 1,811 are certificate programs, 515

are diploma programs (offered only at Kentucky Tech) and 199 are associate degree programs (offered only at community colleges, state colleges and universities).

Four methodologies, including identification of similar program names, were used to identify duplicated program offerings and other issues mandated by SCR 86. The other methodologies were grouping under Classification of Instructional Programs (CIPs) codes, and Kentucky Occupational Information Coordinating Committee (KOICC) occupational clusters, and a questionnaire sent to the heads of state post-secondary institutions. The conclusions reached by the findings of the study are:

1. Most of the duplication by "job title" occurs within the certificate programs offered by Kentucky Tech. While these consist of short courses rather than the more complete diploma and associate degree programs, there remains a question as to whether there are sufficient jobs to support this number and concentration of certificate programs and whether this is an effective use of scarce resources.
2. The CIPs show that in the vocational and technical areas all the post-secondary systems, Kentucky Tech, the UK Community College System, and the universities, provide programs for the student customer.
3. Kentucky Tech and the universities share more programs in common (CIPs) than do the Kentucky Tech and the UK Community Colleges.
4. The areas primarily reserved for Kentucky Tech seem to be more traditional vocational areas, such as automotive, transportation, carpentry, and cosmetology.
5. The KOICC information indicates that in twenty-three occupational areas students who receive either an associate degree or a diploma become marketable for similar, if not always identical, jobs.
6. The degree to which a student increases his or her chances of obtaining employment based on his or her choice of occupational program, school, or credential awarded is unknown.
7. Currently, there is no formal or mandated entity coordinating post-secondary educational programming across all post-secondary associate degree, diploma, and certificate programs. The Council on Higher Education and universities' boards make decisions about college and university programs. The Workforce Development Cabinet and the State Board for Adult and Technical Education make decisions about Kentucky Tech programming.
8. Progress among colleges and universities has been slow in formalizing transfer of credit and articulation agreements. However, the need for better transfer methods has been widely discussed and advancement has begun.

9. Kentucky post-secondary and secondary schools have a patchwork of inconsistent articulation agreements that become obsolete with curriculum changes, requiring a great deal of staff time to negotiate.
10. Because of the prevalence of Tech-Prep, apprenticeships, work-based learning, School-to-Work transition programs, older experienced students, and the desire for applied understanding, articulation agreements and transfer-of-credit agreements should move away from a narrow collegiate model.
11. Low student enrollment and graduation rates should only be a part of decision-making when determining which post-secondary programs to offer. The need for accurate job placement data is important in deciding which occupations and educational programs are in demand, and which are not.
12. School heads are more likely to see a need to add programs based on a community and industry need, than they are to eliminate programs because of lack of demand. Community and institutional pressures add to the difficulty.
13. Post-secondary students often need improvement in acquiring skills and attributes that businesses want in employees.

The recommendations drawn from the conclusions of the study are:

- Recommendation #1: The General Assembly should enact legislation that creates an oversight function to assess, plan, and recommend to the governor occupational and technical programming that provides quality education in high demand occupations and eliminates unnecessary duplication among public programs and institutions.
- Recommendation #2: As jobs are located in specific communities, determination of needed post-secondary education and training programs should be based on regional labor supply and job demand. The General Assembly should enact legislation that requires occupational and technical educational program planning by broad-based regional entities, such as The School-To-Work Local Partnership Councils, whose members represent at least 51% private businesses.
- Recommendation #3: The General Assembly should enact legislation requiring planning for occupational and technical programs to be based on objectively determined needs' assessments, including: 1) labor market analysis within a region; 2) placement rates of student graduates in directly related occupations; 3) number of programs already serving the region; and 4) enrollment and graduation rates in the current programs.
- Recommendation #4: The General Assembly should enact legislation that mandates the technical studies "1+1" type program and block transfer concept statewide as a means for all students with appropriate diploma programs to earn associate degrees.

- Recommendation #5: The General Assembly should encourage the entire post-secondary system to continue to implement a "Seamless System," including flexible access to programs by: competency-based admissions policies, performance-based testing, course-by-course transfers, and credit for life experiences and knowledge, with less emphasis on identical curricula.
- Recommendation #6: The General Assembly should enact legislation that requires each public post-secondary institution to include in its catalog a statement concerning its transfer of credit and articulation policies and a contact person at the institution who will communicate to students details concerning these policies.
- Recommendation #7: The General Assembly should provide budgetary incentives for cooperation between those institutions awarding diplomas and those awarding associate degrees by allocating funds based on both: (a) joint planning to eliminate unnecessary duplication and waste, and (b) joint programming, including successful articulation agreements and transfer of credits.
- Recommendation #8: In order for the post-secondary programs to become effective and efficient, they must offer programs based on supply-and-demand principles. The General Assembly should require program planning based on objective information as set forth in Recommendation #3.
- Recommendation #9: The General Assembly should enact legislation requiring the collection and analysis of accurate and reliable job placement information by a neutral, objective entity, such as KOICC, employment services or one-stop career centers. Incentives for high student response rates should be incorporated into the survey methodology.
- Recommendation #10: Because of limited funding, and the need to improve efficiency and effectiveness, the General Assembly should encourage post-secondary policy makers to implement innovative practices, such as: mobile training sites, instructor rotation to various campuses, tele-courses, and transporting students to regional centers.
- Recommendation #11: The General Assembly should encourage the development of courses and instruction designed to instill the sixteen desired employee skills and attributes discussed in the full report at all secondary and post-secondary schools.
- Recommendation #12: Secondary educational schools should be held accountable for graduates (within 2 years of graduating) who enter post-secondary schools without achieving a standard of basic reading and math. The local school systems from which the student graduated should provide a "guarantee program," similar to Kentucky Tech's, in these two basic skill areas.

- Recommendation #13: Any region that implements efficiency and effectiveness measures, should be permitted to use the funds saved to implement needed programs or to purchase necessary equipment.

Considerable discussion followed, with testimony provided by the Chancellor of the University of Kentucky Community College System, the Executive Director of the State Council on Higher Education, the Secretary of the Workforce Development Cabinet, Director of the Division of Vocation Education of the Kentucky Department of Education, and the representative of the Governor of the Conference of University Presidents Council, the Vice President of Academic Affairs of Kentucky State University.

The Executive Director of the Council on Higher Education stated that the three systems (secondary, workforce and higher education) need to be brought together to develop three-way articulation agreements. He also stated that the issue of supply and demand is to be discussed by the Council in October. He said that the Council is looking at enrollment and job placement information that had been given when a program offering was approved, to determine whether that information has held true.

The Workforce Development Cabinet Secretary stated that Kentucky Tech has 14 schools that have at least one post-secondary program. There are 19 regional post-secondary training centers and 5 Health Technology Centers across the state. It was noted that budget cuts have forced the cabinet to do a comprehensive assessment which has resulted in 40 new program offerings, 27 expanded offerings, 32 reduced offerings and 58 closed programs within the Kentucky Tech System over the previous 5 years. He noted that the Kentucky Tech placement rate is very high. He encouraged a closer look at the issue of duplication by determining whether a class is full and whether graduates are getting jobs related to training.

The Chancellor of the UK Community College System noted that the report was a good first step at gathering data. He did not recommend the creation of another body to monitor the three systems, but recommended a balanced approach more responsive to the needs and demand of businesses and industry. The representative of the Department of Education said that it would be good for the General Assembly to give focus and encourage movement forward in the area of articulation agreements.

The representative of the Governor of the Conference of University Presidents Council stated that the Council has no opposition to the report, saying that there is a need for agreements to be in place prior to students actually starting programs. He stated that Recommendation #1 was of greatest concern to the Presidents Council; the Council believes there is greater need for discussion among the universities and colleges, Kentucky Tech, and all groups involved in developing courses of study at the freshman and sophomore levels. The Council noted that these institutions must be concerned with accreditation.

The discussion continued, as the committee continued to meet on September 20 at the Paducah Information Age Park. Further discussion of articulation agreements occurred with testimony taken from representatives of Murray State University, Paducah Community College, West Kentucky Tech, Paducah, and representatives of Shawnee Community College in Illinois and Southern Illinois University at Carbondale, Illinois.

Also, information and testimony were given by representatives of the Greater Paducah Economic Development Council and Bell South, Kentucky, regarding the development of the Paducah Information Age Park, the only master-planned park in the United States equipped with state of the art telecommunications infrastructure located outside a major metropolitan area. The facility includes the following amenities: a local long distance carrier specialist, video conferencing facilities, job skills' bank and employment services, on-line access to the University of Kentucky super computer, computer training labs, and on-site architectural and engineering and property management services.

The eighth meeting of the committee was held on October 19, at which time the committee completed review of the proposed recommendations contained in the draft report to SCR 86, as presented at the September 19 and 20 meetings of the committee. After a discussion of the recommendations contained in the report, the committee approved the draft report, with the following exceptions:

- Recommendation #1 is amended to read: "The General Assembly should enact legislation that requires the Council on Higher Education and the State Board for Adult and Technical Education to develop a joint review and approval process for new and continuing technical programs at the associate degree, certificate, and diploma levels and eliminating unnecessary duplication among public programs and institutions."
- Recommendation #8 is amended to read: "In order for the post-secondary occupational and technical programs to become effective and efficient, they must offer programs based on supply and demand principles. The General Assembly should require program planning based on objective information, as set forth in Recommendation #3."
- Recommendation 12 is deleted in its entirety.

The committee also heard from the Deputy Secretary of the Tourism Cabinet and the President of the Kentucky Tourism Council regarding the "Kentucky Tourism Master Plan: A Strategic Plan for Tourism Development." Specifically, the Council identified several areas in need of legislative action, and suggested the following:

1. Place the Secretary of the Tourism Cabinet on the board of the Kentucky Economic Development Partnership;

2. Request economic development bonds for tourism projects in the 1997-98 state biennial budget;
3. Amend the statutes regarding the Local Government Economic Development Assistance funds to permit such funds to be used by local officials for tourism projects;
4. Develop a tax credit program for existing and new tourism businesses and attractions;
5. Propose legislation to eliminate liability insurance regulations, taxes and other legal provisions that may inhibit tourism;
6. Repeal the motor coach fuel tax;
7. Increase funding for the state Tourism Matching Funds Program for regional marketing;
8. Provide a broader range of local options on limited alcohol sales at Kentucky tourism businesses;
9. Provide financial incentives for preserving and developing historic structures and sites as tourist attractions, and establish programs for converting historic properties into bed and breakfasts or other tourist attractions;
10. Continue support for the Cultural Economic Initiative of the Education, Arts and Humanities Cabinet; and
11. Provide teachers professional training on Kentucky history and culture.

The committee also reviewed Resolution No. 95-1, dated July 13, 1995, of the Board of Directors of the Kentucky Economic Development Partnership, reorganizing the Department of Financial Incentives of the Cabinet for Economic Development. The Board of Directors of the Kentucky Economic Development Partnership is authorized by KRS 154.10-030 and 12.028 to reorganize the Cabinet for Economic Development and any agency or authority under its control. The committee found the reorganization consistent with state law and found that the reorganization should reasonably be expected to achieve greater economy, efficiency or improved administration within the cabinet.

### **Prefiled Bills**

No bills were prefiled by the committee during the 1995-96 Interim.



**REPORT OF THE 1994-95  
INTERIM JOINT COMMITTEE ON EDUCATION**

**Senator Joe Meyer, Co-Chair  
Representative Freed Curd, Co-Chair**

Sen. Benny Ray Bailey	Rep. Harry Moberly, Jr.
Sen. Walter Baker	Rep. Richard Murgatroyd
Rep. Joe Barrows	Sen. Gerald Neal
Sen. Charles Berger	Rep. Anne Northup
Sen. Lindy Casebier	Rep. Kenny Rapier
Rep. Joe Clarke	Rep. Frank Rasche
Rep. Jack Coleman, Jr.	Rep. Tom Riner
Rep. Barbara Colter	Sen. Julie Rose
Sen. Nick Kafoglis	Rep. Ernesto Scorsone
Sen. David Karem	Rep. Charles Siler
Rep. H. "Gippy" Graham	Rep. Mark Treesh
Rep. Tom Kerr	Rep. Charles Walton
Rep. Bill Lile	Sen. David Williams
Rep. Mary Lou Marzian	Sen. Gex Williams

LRC STAFF: Sandra Deaton, Ethel Alston, Bonnie Brinly, Donna Little,  
Pat McGuire-Cochrell and Penny Robbins.

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**SUBCOMMITTEE ON GOVERNANCE AND FINANCE**

**Sen. Gerald Neal, Co-Chair**  
**Rep. Joe Barrows, Co-Chair**

Sen. Walter Baker	Rep. H. "Gippy" Graham
Rep. Joe Clarke	Rep. Richard Murgatroyd
Rep. Jack Coleman, Jr.	Senator Gex Williams
Rep. Barbara Colter	

**Senator Joe Meyer, Ex-Officio**  
**Representative Freed Curd, Ex Officio**

**SUBCOMMITTEE ON POSTSECONDARY EDUCATION  
AND THE TEACHING PROFESSION**

**Sen. Benny Ray Bailey, Co-Chair**  
**Rep. Ernesto Scorsone, Co-Chair**

Rep. Charles Berger	Rep. Charles Siler
Rep. Kenny Rapiere	Rep. Mark Treesh
Rep. Tom Riner	Rep. Charles Walton
Sen. Julie Rose	

**Senator Joe Meyer, Ex-Officio**  
**Representative Freed Curd, Ex-Officio**

**SUBCOMMITTEE ON STUDENTS AND CURRICULUM**

**Sen. David Karem, Co-Chair**  
**Rep. Frank Rasche, Co-Chair**

Sen. Lindy Casebier	Rep. Harry Moberly
Sen. Nick Kafoglis	Rep. Anne Northup
Rep. Tom Kerr	Sen. David Williams
Rep. Bill Lile	

**Senator Joe Meyer, Ex-Officio**  
**Representative Freed Curd, Ex Officio**

## **INTERIM JOINT COMMITTEE ON EDUCATION**

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

The following agencies are under the jurisdiction of this Committee: the Council on Higher Education; the Education, Arts and Humanities Cabinet; the Education Professional Standards Board; the Kentucky Higher Education Assistance Authority; the Kentucky Institute for Education Research Board; the Office of Education Accountability; the School Facilities Construction Commission; the Kentucky Board of Education; and the Workforce Development Cabinet.

### **COMMITTEE ACTIVITY**

During the 1994-95 interim, the Interim Joint Committee on Education held fourteen meetings prior to October 31, 1995. With the approval of the Legislative Research Commission, it met for its fifteenth and final meeting on November 2, 1995, primarily to receive the Subcommittee report on SCR 84, to prefile legislation, and to approve several administrative regulations.

The Committee was organized into three subcommittees: Governance and Finance; Postsecondary Education and the Teaching Profession; and Students and Curriculum. Following is a summary of activity of the full Committee and each subcommittee.

Major topics before the Interim Joint Committee on Education were the Kentucky Instructional Results Information System (KIRIS), including a report on the 1993-94 preliminary results, discussions relating to the current testing contract and the request for proposals for the next contract, and the evaluations of KIRIS by the Kentucky Institute for Education Research and the Office of Education Accountability; professional development for Kentucky teachers; the Elementary Schools Assistance Plan required by HJR 62; the independent evaluation of the Family Resource and Youth Services Center Program; the implementation of 1994 House Bill 490, relating to girls' fast-pitch softball; higher education funding and tuition policy; various initiatives of the Workforce Development Cabinet, including the School-to-Work program, Vision 21, customized industry training, the creation of the Department for Adult Education and Literacy, their personnel pilot project, the Kentucky Industries for the Blind Charles McDowell Center, and the Office of Training and Re-employment; the community college system; the primary program; the

Calloway County Alternative Program; parental and community involvement; and a report by the Subcommittee on Governance and Finance on 1994 SCR 84.

The Committee also reviewed the 1994 annual report of the Office of Education Accountability. Additionally, it participated with Kentucky's first Information Technology Summit, held in Louisville as an interactive television demonstration. Early in the interim, the Committee's co-chairs conducted public hearings in Owensboro, Paducah, and Bowling Green to hear citizen reaction, comments, and suggestions concerning public education.

In performing its statutory legislative oversight responsibilities, the Committee reviewed 100 administrative regulations under the review process established in KRS Chapter 13A. Sixty-five administrative regulations were approved. Action was not taken on 35 regulations due to time constraints. Additionally, nine regulations became effective without review of this Committee, under the provisions of KRS Chapter 13A, since the Committee did not meet within thirty days following the approval of the administrative regulations by the Administrative Regulation Review Subcommittee.

Pursuant to KRS 12.028, the Committee reviewed three executive orders relating to reorganization: 94-647, creating three new divisions in the Kentucky Higher Education Assistance Authority; 94-904, establishing the Office of School-to-Work in the Workforce Development Cabinet; and 95-112, establishing the Division of Minority Educator Recruitment and Retention, renaming the State Board for Elementary and Secondary Education the Kentucky Board of Education, and transferring the Division of Kentucky School for the Blind and Division of Kentucky School for the Deaf from the Office of Regional Assistance to the Office of Learning Programs Development.

The Committee voted to prefile several bills for the 1996 Regular Session of the Kentucky General Assembly. Those include: 96 RS BR 490, AN ACT relating to the definition of schools for purposes of school-based decision making; 96 RS BR 864, AN ACT relating to the State Board for Elementary and Secondary Education; 96 RS BR 867, AN ACT relating to student discipline codes; 96 RS BR 868, AN ACT relating to certified employee evaluation programs; 96 RS BR 932, AN ACT relating to school-based decision making; 96 RS BR 950, AN ACT relating to the discipline of students; 96 RS BR 951, AN ACT relating to the Principals Assessment Center; 96 RS BR 952, AN ACT relating to education; 96 RS BR 953, AN ACT relating to school district finance; 96 RS BR 954, AN ACT relating to experimental school programs; 96 RS BR 955, AN ACT relating to expulsion of students; 96 RS BR 959, AN ACT relating to the Kentucky Educational Savings Plan Trust; and 96 RS BR 961, AN ACT relating to local school district finance.

## **Subcommittee on Governance and Finance**

The Subcommittee on Governance and Finance met twelve times this interim and considered the following issues:

### **Professional Compensation Plan**

The professional compensation plan for elementary and secondary teachers and administrators was expected during the 1992-94 biennium; however, the Kentucky Board of Education could not reach consensus on the nature of the plan. The Subcommittee heard testimony from representatives of the Department of Education, the Kentucky Education Association and the Kentucky Association of School Administrators that the adoption of professional standards for teacher preparation and certification is imperative and should be the foundation for the compensation plan. Recognizing that KRS 157.390 envisions a "performance driven" compensation plan based on a combination of factors, such as education, experience, knowledge, rank and skill, these representatives also added that all stakeholders should be involved in developing a plan and that the General Assembly should provide sufficient funding for professional and competitive salaries. In view of the remaining unresolved questions, the Department of Education was asked to recommend action on finding solutions.

### **Support Education Excellence in Kentucky (SEEK)**

The Subcommittee continued to monitor the Support Education Excellence in Kentucky (SEEK) funding program and its impact on achieving equity and parity among the school districts, specifically among the small school districts. Statewide data on the funding for public schools indicated that the amount of revenue available to local school districts has increased overall about 44% from 1989 through 1994. In this calculation, the largest increase in revenue was in federal allocations, 52%. During this same period, local and state revenues increased 51.48% and 39% respectively. Available revenue per pupil increased 41.5%. In this calculation the total state amount does not include all money spent on education. Approximately \$435 million was disbursed to local school districts for teacher retirement, health insurance benefits, and school facilities construction. If these totals are added to the SEEK funding amount, per pupil funding increases by \$700 to \$800.

Other increases in available revenue during the 1989-94 period include a 20% increase in teachers' salaries and a 23% increase in property tax assessments. When comparing statewide expenditures by category for the same period, it is apparent that money is not being spent much differently now than it was in 1989. Expenditures for instruction, transportation, facilities, operation and administration are within one percent of what they were five years ago, with the exception of the health and attendance category, where increases can be attributed to the family resource centers. Other topics of discussion included 1994 HB 810, providing for tax assessments in growth districts; qualifications for Tier I, Tier II, and the hold harmless provision of SEEK; and the schedule for developing and approving local school districts' budgets.

Figures for average daily attendance have grown by 1.4% over the same four-year period. Department of Education officials reported that for the first time since the implementation of the SEEK funding formula, all components of SEEK are fully funded for the 1994-95 fiscal year and appear to be fully funded for the 1995-96 fiscal year. With the additional \$13 million from surplus added during the 1994 Special Session, the guaranteed base increased to \$2,517 from \$2,495.

The appropriation adjustments made during early 1995 were based on the projection of an \$11 million surplus in the SEEK program. As a result of the overestimation of average daily attendance and the understatement of the increase in property assessments, the guaranteed base and Tier I were overestimated and overfunded. Conversely, transportation costs increased and funds were shifted from the above mentioned components to pupil and vocational transportation to fully fund each component for the first time since FY 1990-91. Additionally, funds were transferred to the Facilities Support Program in Kentucky (FSPK) to provide equalization funds for school districts that participate in the program. This infusion of money resulted in this program being fully funded also.

The \$11 million surplus in SEEK was shifted to liquidate the \$18 million receivable outstanding against the state's Kentucky Kare self-insured health plan for local school district personnel. Premiums due from the Department of Education for employee coverage were not paid during FY 1993-94 and the shortfall needed to be liquidated.

Concerning the preschool program, the 1995-96 allocation is insufficient by \$1.4 million to continue funding at the current rates for children at-risk and children with disabilities. Of the 956 additional children, the largest increase in enrollment has been among the disabled, which totaled 79%. Together with enrollment in Head Start, Kentucky has a very high participation of eligible children that, in part, can be attributed to the popularity of the programs and the high degree of poverty in the state.

The Department representatives proposed the following recommendations to the Subcommittee for consideration in refining the SEEK formula:

1. Reconsider the use of the federal free lunch count as the method of generating the at-risk children funds in view of the expected changes in the federal program;
2. Use prior year property assessments to provide a firm figure for the SEEK calculation rather than a projected calculation of the certified property assessment;
3. Use enrollment statistics instead of average daily attendance as a basis for the SEEK calculation;
4. Continue the evaluation of the special education weights, although no change in the weights is recommended; and

5. Evaluate the propriety of establishing weights for categorical programs currently funded outside of the SEEK formula.

### **School Facilities Construction Commission (SFCC)**

While the Subcommittee continues to study school facilities construction and the funding programs, few changes to the process have been made since the creation of the School Facilities Construction Commission (SFCC) in 1985. As directed by 1994 SJR 82, proposed changes in the local school facilities planning process will streamline the process and decrease the number of hours a local district spends in the process. Among the changes are requiring less data on transportation and requiring fewer public hearings.

A recurring question in the school construction arena is unmet need, which is defined as the cost of priority projects included in current facility plans less the available revenue. Unmet need is currently estimated at \$2.4 billion. To counter some of the problems of inflated costs and misclassification of priority needs, the department is developing a more flexible classification system that recognizes significant differences and needs among local school districts, but emphasizes instructional space needs.

The Subcommittee viewed a slide show featuring new construction and major renovation projects completed throughout the state with the assistance of state funds. The average cost of construction ranged from \$27 to \$75 per square foot.

Under SFCC, \$1.4 billion in bonds have been sold for school construction since the inception of the SFCC in 1986. Also, the debt service obligation is approximately \$51.4 million. However, a sharp decline is expected in this number by the year 2010.

### **Kentucky Education Technology System (KETS)**

The Kentucky Education Technology System (KETS) is a critical strand of education reform to which \$80 million has been appropriated. On March 14, 1995, the Subcommittee visited the Shelby County Public Schools to view the KETS in operation. The Shelby County Public School System was selected as the pilot project for the installation and implementation of the District Administrative System (DAS) and the instructional programs. Installation of the administrative system began in the Fall of 1994.

Representatives of the Department of Education explained major events in the implementation of technology and the selection process for hardware and software used in the pilot project. With a \$14 million cost, the DAS system includes the Microsoft office package, a graphics tool, electronic mail, Internet, and the required equipment. While 86 school districts are already networked, about 15 are added to the system each month. Current plans call for full implementation and networking the system in all 176 school districts by June 30, 1996.

The new accounting system adds more specificity and significant information to the accounting process, and new forms and charts generated by the DAS provide more

meaningful school budgets. The system is efficient and reduces time consuming and repetitive tasks in the budget process.

Instructional technology was displayed in a variety of classes at Shelby County High School, including music, industrial technology, agriculture and writing laboratory . At Southside Elementary School, the Subcommittee observed a class of primary students display and explain their skills in accessing and using the "KidPix" program in the computer laboratory.

### **Rewards and Sanctions**

The Subcommittee conducted a joint meeting with the Budget Review Subcommittee on Education. The agenda included a discussion of the 1995 School Rewards and the Department of Education reported that 480 schools, with 14,127 certified staff, were to share \$26,108,840. The maximum amount per staff member is \$2,602.

### **Year-Round Schools**

The discussion on alternative schedules and year-round schools was led by educators describing the process of transitioning to a year-round calendar and the particulars of the schedule adopted.

In the 1994-95 school year the Engelhard Elementary school in Jefferson County began using an alternative calendar, with each Monday devoted to an optional program of tutoring and enrichment, and 177 instructional days conducted during the rest of the week (Tuesday through Friday).

The Bardstown Independent School system will implement a districtwide year-round school program beginning with the 1996-97 school year, based on the 45/15 day plan, which consists of nine weeks of academic studies followed by a three-week intercession for remediation and enrichment. However, a modified plan may be instituted for the 1995-96 school year.

Staff of the Frankfort Independent School System described the plans to adopt a 45/15 model calendar beginning on August 1, 1995.

All of the educators pointed out the measurable advantages that could be realized from a year-round calendar, including: improved morale and productivity of students and teachers alike; improved grades of students; parental involvement and better use of facilities.

### **School-Based Decision Making Councils**

The partnership between local school boards and school-based decision making councils was discussed with representatives from education related organizations. A general consensus of the group was that shared decision making is essential to education reform and is working well in the Commonwealth. However, the Subcommittee heard a

number of concerns in the areas of composition and responsibility of school councils and boards.

The propriety of including representatives of school support staff and the community on school councils was discussed. Although the input of the community and school staff can be achieved through committees established by the school council, views on their membership on school councils range from the opinion that council composition is too rigid and that a broader representation is needed to the view that local school boards represent the community.

The suggestion was also made that school council members representing parents and teachers should have the opportunity to serve longer than two years or be allowed to serve successive terms. An increase in the participation of parents in elections of school council representatives has been noted; however, schools are encouraged to enhance the process and solicit more community support.

Another area of concern is the role of a school council and the superintendent in selecting a school principal. While superintendents are charged with recommending candidates to school councils, the exercise of that discretion in submitting names of candidates has a great impact on the council's selection. Moreover, some feel that the process of selection places the principal at the disadvantage of serving the interests of two masters, the school council and the superintendent.

### **Management Improvement Plans**

The Subcommittee conducted a public hearing on the Letcher County School District State Management Improvement Program, provided for in KRS 158.780 and 158.875. Testimony offered at this public hearing by community representatives, school board members, administrators and parents demonstrated the diversity of opinions on the effects of state management on students and the propriety of continuing the state management program. In May, 1995, the Kentucky Board of Education decided to continue state management in accordance with KRS 158.780 and 158.875 for a two-year period expiring June, 1997. Issues regarding the state management program and the power of the Commissioner of Education to suspend powers of local board members are pending court action, and therefore no action was taken by the Subcommittee.

### **Senate Concurrent Resolution 84 (SCR 84)**

As directed by 1994 SCR 84, the Subcommittee conducted a review of all statutes, administrative regulations, and biennial budgets relating to planning, reporting, and applications for funding required of local school districts and schools. The purpose of this review is to identify unnecessary requirements and recommend ways to coordinate planning and reporting that assure accountability, provide necessary statewide data, and minimize paperwork.

The Local Superintendents Advisory Council submitted recommendations and summarized seven key points as the basis for their recommendations. These points

concern: the propriety and necessity of certain regulations; a two-year accountability cycle for local school districts; a process for a waiver or approval to use an alternative approach; the necessity of submitting documents, as opposed to having documents available for inspection upon request; certification by school officials that certain statutes are being followed; the expense of publishing information; and the local facilities planning process.

The Department of Education officials discussed their position and agreed that many of the changes were appropriate. Also, Department of Education officials reported that the Kentucky Education Technology System (KETS) Network will have a significant impact on minimizing paperwork and unnecessary reporting by providing access for sharing information throughout the department; by eliminating the redundant collection of information; and by providing the electronic submission of financial and staff data.

Concerning SCR 84, staff was directed to draft legislation based on the recommendations submitted by the Department of Education and the Local Superintendents Advisory Council. The Subcommittee approved three prefiled bills concerning: waiver of administrative regulations promulgated by the Department of Education; inspection of student discipline codes; and submission of certified employee evaluation plans. A final report was submitted to the Interim Joint Committee on Education.

### **Subcommittee on Postsecondary Education and the Teaching Profession**

The Subcommittee on Postsecondary Education and the Teaching Profession met eleven times during the interim and considered the following issues:

#### **School-to-Work**

The Subcommittee heard about Kentucky's involvement in the federal program established by the School-To-Work Opportunities Act of 1994, as well as the implementation of SB 195 (1994), the Workplace Essential Skills Program. The School-To-Work Opportunities Act of 1994 gives Kentucky the opportunity to create a coherent system of education and training to help students make a successful transition from school to the workforce. The new system will prepare the students for a more skilled, high wage career; increase future opportunities for students as they come through the educational system; create partnerships with business and industry in providing high quality work-based learning experiences for students; motivate students to stay in or return to school; and build on and advance such programs as Tech Prep, cooperative education, pre-apprenticeship, youth apprenticeship and career academies.

### **The Workplace Essential Skills Program**

The 1994 General Assembly appropriated \$1.6 million for Fiscal Year 1996 to create the Workplace Essential Skills initiative, in order to move adult basic education into the workplace. The program differs from traditional adult education programs in that it will provide customized training in the business or industry setting, targeting basic skills that are utilized in a particular workplace. The Department of Adult Education and Literacy will place eight Workplace Essential Skills coordinators in strategic locations across the state to be responsible for the development and coordination of the programs. The Department will also provide four mobile classrooms to help companies that do not have classroom space for their employees.

### **Teacher Education and Preparation Programs**

The Subcommittee monitored the reformation of teacher education and certification processes and heard from public school educators and college faculty who are developing certification standards for new teachers, experienced teachers, and new administrators. The standards describe what educators should be able to do in authentic situations and identify those behaviors and processes that are most critical to effective student learning or administering in an educational setting. The standards will help the Education Professional Standards Board in the development of a performance-based system of teacher preparation and certification by developing and recommending standards and performance criteria for the certification of educators, by identifying essential outcomes for assessment tasks, and by providing a guide for Kentucky colleges and universities to use for restructuring teacher education programs.

A dean from one of the state's schools of education recommended that a performance-based system for certification and compensation be developed. He also reported that the Education Professional Standards Board is requiring colleges and universities to modify their teacher education programs to be consistent with the Kentucky Education Reform Act; colleges or universities not meeting those standards must change their programs or lose their accreditation.

The Subcommittee heard from representatives of the teacher education programs at the University of Louisville, Morehead State University, and Murray State University about the revisions being made in the teacher preparation programs. Though each program is designed differently, they all reported that they have responded to the requirements of the Kentucky Education Reform Act with enthusiasm, as they see new opportunities for their graduates in the public schools. The newly developed standards for new teachers, experienced teachers, and administrators are impacting the programs. The assessment process to ensure that certification candidates have met the standards is still being discussed. The career point at which the assessments should be conducted has not been decided. The assessment could be given during the senior year or as part of the teacher internship program.

The Subcommittee also heard from three local school district representatives on the attributes of the new teachers that are being employed by the school districts. One

superintendent reported that newly hired teachers are aware of the education reform goals and academic expectations, but fall short of actually designing instruction incorporating the new teacher standards into daily practice and routine. He recommended that all university students, especially future teachers, be assessed with authentic assessment, using portfolios, performance events, individual and group projects, and open-ended questions. All three school district representatives recommended that university personnel become more directly involved in public schools.

The Subcommittee heard from two recent graduates now teaching in local schools who discussed the transition from student to teacher. One of the new teachers said the most helpful university classes were those taught by people with experience in the public schools. However, she said she was not prepared for the requirements of the statewide assessment program. The second teacher, who teaches fourth grade, recommended that primary teachers become more aware of the skills children are expected to have in the fourth grade, especially those skills included on the assessments.

The Kentucky Teacher Internship Program was also explained to the Subcommittee. The goal of the Internship Program is to ensure that the new teacher has the knowledge and skills essential for effective teaching performance.

### **Alternative Certification**

The Subcommittee was presented information on alternative certification by a representative of the Department of Education and by members of a local school district that hired a teacher through an alternative certification program. The Department of Education staff reported that this form of certification has been very successful in attracting professional minorities who are in the midst of changing careers to the teaching profession. It was suggested that some method for giving credit for life experiences be developed. The local school district representatives, including a principal, a resource teacher, and a new teacher, explained the approval process for their alternative certification program and the effect it had on training the new teacher.

### **Professional Development**

A representative of the Department of Education explained the changes made to professional development programs under the Reform Act. Today, professional development plans are created for the individual practitioner's needs to help them develop as educators. Flexibility in developing school calendars is critical in planning effective professional development.

The Subcommittee heard testimony relating to changes in 704 KAR 20:021, relating to the planned fifth-year program. Under the amendment, institutions of higher education are required to accept up to twelve hours of professional development credit toward the fifth-year program.

The Subcommittee also heard a description of the roles the regional service centers and district consortia provide for professional development. Regional service centers are

an extension of the Department of Education, while the consortia consist of two or more districts that have agreed to perform certain functions related to professional development.

### **Training and Assessment Programs for Principals and Superintendents**

The Subcommittee received a status report on the principal internship program, the principal assessment program, and the instructional leadership requirements from a representative of the Department of Education. The Department has been examining ways to improve the leadership development of principals and formed an ad hoc work group on leadership development. It was reported that certification statistics indicate enough certified principals to fill positions, but there is a shortage of candidates, especially in the rural areas of the state. There is also an insufficient number of women and minority candidates. The shortage of candidates is partially due to the increased responsibilities borne by principals. A university official recommended changing the requirements for certification of principals to require that an individual have three years of teaching experience prior to entering a master's degree program for administrative preparation and that individuals develop portfolios reflecting their administrative skills as they enter and complete the master's program and the internship program.

The Subcommittee received information on the superintendents' training, testing, and assessment program. It was described as a valuable professional development experience for superintendents, focusing on five specified areas: core concepts of management, school-based decision making, Kentucky school law, Kentucky school finance, and school curriculum and assessment.

### **Committee on Equal Opportunities in Higher Education**

The Executive Director of the Council on Higher Education explained the history of the Kentucky plan for equal opportunities in higher education since 1981. In 1990, the Council approved a voluntary five-year plan for equal opportunities. Senate Bill 398 (1992) directed the Council to postpone the approval of any new programs unless the institution met its equal opportunity goals, as established by the Council. A 1993 administrative regulation allows institutions making good progress toward their goals to be automatically eligible to submit their programs for approval and allows waivers for those institutions making progress toward their goals. As of the fourth year of the five-year plan, satisfactory progress has been made in six of eight categories.

### **Speech and Language Pathology**

A manager within the Department of Education's Program Services Branch presented information on the implementation of 1994 SB 51, relating to speech and language pathology assistants. During the 1994-95 school year, 56 speech and language pathology assistants were employed by 47 school districts, primarily in the rural areas of the state. Current major concerns include the pathologists' caseload and lack of access to the graduate programs that prepare speech and language pathologists. Access to the programs is difficult because there are long waiting lists to enter each of the five Master's level programs in Kentucky for this area of study.

### **Sexual Misconduct by Professionals**

The Subcommittee heard a brief status report from an official with the Department of Education on the implementation of 1994 Senate Bill 107 and House Bill 115, relating to sexual misconduct by professionals. She reported that there have been 496 reports, and the Education Professional Standards Board has revoked a total of 83 certificates and has suspended 13. The definition of sex-related behaviors includes a wide variety that ranges from harassment to rape.

### **Medical Education**

Members heard testimony relating to medical education in Kentucky at one of its meetings. The Dean of the University of Kentucky's College of Medicine explained the principal mission of the UK College of Medicine as educating physicians, but it also educates students in other fields and provides practicing physicians with continuing education courses. He encouraged members' support for funding the Kentucky Health Service portion of House Bill 250, since approximately thirty percent of their students, admissions figures indicate, will accept the tuition relief and choose to practice in an under-served rural Kentucky area.

The Chancellor of the UK College of Medicine said the Chandler Medical Center has taken seriously their rural health responsibilities and the education requirements of HB 250. The nurse practitioner and physician assistant training programs at UK will be expanded to four additional locations over the next two years and they have requested permission to expand the nurse midwife and physician assistant programs to Paducah. Funding is being requested for two additional Centers for Rural Health in the 1996-98 biennium.

The University of Louisville's President explained the mission of the School of Medicine at U of L. He said a significant effort is focused on primary care and that their faculty provides approximately \$25 million of care to the medically indigent each year. Their 1996-98 biennial budget request incorporates their current efforts to expand off-campus teaching, to establish a new family practice residency program at Glasgow, to develop residency programs in Murray and Elizabethtown, and to establish a joint physicians assistant program with Murray State.

The Dean for the U of L School of Medicine reported that approximately 53 percent of last year's graduating class entered primary care disciplines, but a smaller percentage actually practice in primary care, as they go into a specialty or pediatrics while in their residency program. Plans are underway to develop a joint program with Western and Murray for physician assistants and nurse practitioners.

The Executive Director of the Council on Higher Education described several proposals related to the delivery of physician assistant and nurse practitioner programs in western Kentucky, from both the University of Kentucky and the University of Louisville, to be delivered in conjunction with other institutions in that part of the state. At the current time there are no programs in western Kentucky, but there will be in the future.

He said the recruitment and retention of minorities in the health professions has not been addressed, since scholarships and other financial incentives have not been available, but the institutions are working to recruit and retain minority students and faculty. He said they are working to determine the degree to which health professions education courses are uniform and transferable among institutions.

### **Subcommittee on Students and Curriculum**

The Subcommittee on Students and Curriculum met thirteen times this interim and considered the following issues:

#### **Family Resource and Youth Service Centers**

The Secretary for Human Resources presented an update on the cabinet's staffing and administrative changes relating to the family resource and youth services centers program. The primary role of the cabinet is to support the Interagency Task Force on Family Resource and Youth Services Centers. All program positions at the state level were abolished and new positions established, in order to create a more efficient administrative structure, designed to address the needs of centers at this stage of implementation. A team management approach will be used for administering the program. For administrative purposes, the Branch for Family Resource and Youth Services has been relocated to the Office of Policy and Budget.

The Chairman of the Interagency Task Force reported that there are 455 centers currently serving 752 schools, although 1,151 schools are eligible for services. By the end of the current biennium, there will be 530 centers serving 853 schools, with a budget of \$37,300,000.

#### **High School Restructuring Pilot Program**

The Task Force on High School Restructuring, appointed by the Kentucky Board of Education, made a number of recommendations for changing high school graduation requirements. Included in the proposed changes are five core components: individual graduation plans, integrated academic portfolios, student-initiated culminating projects, school-sponsored and approved activities, and exit reviews. It also recommended that model sites pilot performance-based graduation requirements. Currently, sixty-eight Kentucky high schools are participating voluntarily in a pilot restructuring program that includes networking and planning opportunities. The Subcommittee received a progress report from two model sites.

#### **Kentucky Education Collaborative for State Agency Children**

The Kentucky Education Collaborative for State Agency Children (KECSAC) was established to improve education programming for state agency children. This includes children committed to or placed in Cabinet for Human Resources (CHR) operated or contracted institutions, facilities, or day treatment programs or in private facilities financed through the cabinet. It also includes children of school age in home and community-based

services provided as an alternative to intermediate care facility services for the mentally retarded.

KECSAC's Executive Director called for the following legislative changes: clarify the provision that allows school districts to decide not to serve state agency children, thus making the Collaborative responsible for providing the educational program; address the varied funding levels that are based upon whether the child is placed in a private or public facility; and provide contingency funding for school districts affected by treatment program changes, such as opening, closing, or renovating a facility or shifting populations.

The Office of Education Accountability summarized its survey of local school districts serving state agency children. It found districts are having problems serving state agency children and are not receiving assistance from the Collaborative. Staff suggested that changes in the program may be needed because of the large number of districts considering opting out of the program.

The Subcommittee heard from the Associate Commissioner for the Office of District Support Services regarding the Support Education Excellence in Kentucky (SEEK) funding formula. He described the guaranteed base amount and the various adjustments that are made to the base amount, depending upon the district's number of at-risk students, exceptional children, home and hospital instruction students, and the costs for pupil transportation. He also described Tier I and Tier II funding.

Children enrolled in a school district are automatically included in the computation of the average daily attendance, even if the student enrolls for just one day of school in the district. A major concern relative to funding for state agency children is that the child count for exceptional children is taken on December 1. The add-on for exceptional children is based on that count and there are no adjustments. This presents a problem for districts when they receive exceptional children after December 1, since funds are not allocated for those children until the following year, if they remain in the school district.

The Subcommittee also heard testimony from representatives of two local districts who described the difficulties in serving state agency children. They are concerned that certain districts are disproportionately impacted by programs serving these students, that districts require more money to meet the many needs of these children, and that an interagency agreement on state agency children placements should be adopted.

### **Primary Program**

The primary program is that part of school from entry until the student meets the requirements for the fourth grade. The critical attributes are developmentally appropriate educational practices, multiage and multiability classrooms, continuous progress, authentic assessment, qualitative reporting methods, professional teamwork, and positive parental involvement.

A representative from the Department of Education reported on the implementation of the Elementary Assistance Plan adopted by the Kentucky Board of Education pursuant to HJR 62. The resolution calls for the department to find ways to share successful strategies among teachers and to ease the workload for elementary school teachers. As part of the department's response, the math portfolio has been moved to the fifth grade and training continues for all teachers involved in writing and math portfolio development and scoring. In addition, the department has developed eight discipline-based learning descriptions and elementary course outlines. Staff is continuing to work with the professionals in the field to help define professional development and determine [or describe] how schools can best use their own resources and teacher-to-teacher training to continue to implement reform. The department is also coordinating activities with several professional organizations.

The Subcommittee heard the findings from the Kentucky Institute for Education Research's primary study. One of the study's researchers described aspects of the typical successful primary teacher in Kentucky: teaches dual-age groups; teaches special needs students in the regular classrooms, with special education teachers being brought in to help these students; creates attractive classrooms with flexible arrangements; fosters a positive social and emotional climate in the classroom; develops an integrated curriculum with themes narrow in scope; spends class time primarily on reading, writing and math, and less time on science, social studies and the arts; uses some authentic assessment techniques; increases parental involvement, but in traditional ways; and receives support primarily from the principal and other teachers in the same field.

The Subcommittee heard testimony from a representative of The Family Foundation, who raised three concerns about the primary program: the lack of clear grade-by-grade content and skill standards, questionable teaching techniques, and that the mandated program violates the principle of local control.

The Subcommittee also heard presentations from two practitioners who discussed issues relating to professional development for primary teachers. Both emphasized that teachers are at different stages of learning various new teaching strategies and techniques and that it will take time to fully implement the innovations. Internal district support, time for teachers to talk with each other during the school day, time to reflect on what is happening in the classroom, and resource materials facilitate program success.

### **School-Based Decision Making**

School-based decision making (SBDM) allows school councils, made up of teachers, parents, and the principal, to make many decisions about curriculum, instructional practices, and how the school operates. The law calls for each school to adopt school-based decision making by July, 1996, unless it is the only school in the district or the school exceeds its goal for improving student achievement set by the state and requests a waiver.

The Department of Education reported on the implementation of Senate Bill 51, which requires minority representation on councils for schools that serve more than 8% minority students. All schools have been notified of the requirements of the bill, and a program review outlining SBDM legislation has been distributed to school superintendents and principals. In June, 1994, the department revised the SBDM training to ensure a stronger component related to minority recruitment and retention. The department is providing technical assistance for schools implementing SB 51, but there have been few requests.

Representatives of Jefferson County Public Schools, the Jefferson County Teachers Association and the 15th District Parent and Teachers Association (Jefferson County) described the problems in implementing school-based decision making in that county. The teachers' association believes that the bargained contract is binding and should in no way be circumvented by school-based decision making policies. An agreement has been reached by the three parties, but some view the teachers' association as continuing to portray school-based decision making negatively.

The Subcommittee heard discussion on several prefiled bills that would change the composition of school-based decision making councils. The Subcommittee also heard testimony from various representatives of education organizations. The Kentucky PTA supports increasing the number of parents on school councils and adding a community representative. The Kentucky Association of School Councils has found no consensus on the issue. The Kentucky School Boards Association Board of Directors' position is that if there is to be a change in the composition of school councils, it advocates the addition of two parents, in order to equalize the number of parents and educators. Some are concerned that the addition of a community member will confuse the role of community representation. The Kentucky Education Association said that genuine authority must be vested in the same people who bear enormous responsibility under the Reform Act, especially since schools and educators are held accountable for school performance. The real problem is a lack of training of council members; KEA's legislative platform calls for requiring twelve hours of training. (The Kentucky Association of School Administrators had not yet taken a position.)

### **School Assessment and Accountability**

The Director of the Office of Education Accountability and a representative of Horizon Research International presented the results of a survey of legislators concerning the Kentucky Instructional Results Information System. The telephone survey was conducted with Kentucky legislators between July 12 and July 23, 1994, with 102 of the 135 legislators responding. The survey revealed that the vast majority of legislators consider the goals of the Kentucky Education Reform Act to be important. Eleven percent rated the statewide assessment and accountability system as successful, and 59 percent somewhat successful. Also, 85 percent of those surveyed thought it extremely or very important for students to acquire knowledge and be able to apply that knowledge in solving problems, and 69 percent strongly agree or agree that the assessment should be primarily performance-based. Seventy-two percent of the legislators surveyed felt that

positive change is taking place in the classroom because of the assessment, particularly due to the writing and mathematics portfolios and performance events.

The Subcommittee also heard a report on one of the two independent evaluations of Kentucky's assessment and accountability system, the Kentucky Instructional Results Information System (KIRIS). The executive director of the Kentucky Institute for Education Research presented the findings from the Western Michigan University study contracted by his organization. Overall, KIRIS is consistent with the legislative mandate, but stake holders have too little understanding and confidence in KIRIS. While Kentucky educators have been involved in the development of the system, the involvement and communication about the involvement need to be improved.

KIRIS has helped to improve student writing, but performance assessments have not yet been integrated into the instructional process across grade levels, as envisioned by the legislation. A good job of building the assessment system has been done, but not as much effort has been spent helping all teachers to develop performance assessments across grade levels.

The researchers concluded that the technical adequacy of the KIRIS accountability index has not been established sufficiently to continue its use for administering rewards and sanctions. Given the legislative requirements and the short time for development, the study found that the department had done what could be expected and should be commended for developing a state-of-the-art, primarily performance-based assessment system.

The Commissioner of Education stated his belief that the most important policy question is whether it is fair to compare one class to another. The question is whether it is fair to hold schools accountable for the performance of all students. It was a policy decision of the state to hold schools accountable and to provide incentives for them to do whatever they can to engage parents, to engage the social and health services delivery system, and to change their learning strategies to improve learning for all students. There is a commitment to uniform high standards for all students every year. The baseline and end of biennium scores are based on the average of two years which diminishes the "good class/bad class" phenomenon, and an appeals process is available for any school that believes that an unusual change in the demographics of the student population has occurred.

The Subcommittee heard a report on the distribution of school rewards. A little over \$26 million was distributed to 479 schools and 42 school districts that exceeded their goal for improvement during the biennium. The law requires that the certified staff, by majority rule, decide on ways the reward money may be spent. The staff is to use the reward money in accordance with these decisions.

The reward schools were to notify the Department of Education by May, 1995, of the voting procedures and how they voted to use their rewards. A representative from the

Department of Education reported on how reward schools chose to use their money and some of the problems that have been identified. Ninety six percent of the reward money was used for staff bonuses, a little over 1% for other purposes, and 2% was set aside for appeals. The form does not clearly differentiate between certified and classified staff bonuses.

The department staff conducted a phone survey primarily of principals from 74 reward schools. Forty-three percent said there were no problems; 26% suggested that how to spend the money was an issue; 9% reported staff morale problems; 4% said it was time-consuming; 3% reported not enough regulation and 15% cited other issues. Their major suggestions for improving the program were: 32% called for regulating the distribution of reward money; 19% called for more guidelines and 3% suggested that there be fewer choices.

Two Kentucky distinguished educators, outstanding educators who can be assigned to assist schools that are in decline based on assessment results, described working with these schools. They both stressed the importance of having a strong instructional leader in the building and the need for building staff to sit down together and talk about the assessment results and what they mean. One of the most effective components of the distinguished educator program has been networking and sharing expertise with one another to help schools find solutions to their problems. The Subcommittee also discussed the importance of including parents in the development of the school transformation planning process in these schools.

### **Commission on the Deaf and Hard of Hearing**

The Executive Director of the Commission on the Deaf and Hard of Hearing and several other advocates for the deaf community appeared before the Subcommittee to make the following recommendations: adopt an educational bill of rights for the deaf and hard of hearing; establish the Kentucky School for the Deaf and the Kentucky School for the Blind as statewide educational resource centers; create regional community access and service centers for deaf and hard of hearing individuals; revise the duties of the Commission on the Deaf and Hard of Hearing to authorize its implementing and operating a statewide certification program and to designate the commission as the primary state agency for assisting other state agencies in providing programs and services related to deafness; and increase the cap for the statewide TTY distribution program from the fee for Kentucky relay services on the phone bill.

### **Legislative Recommendations**

The Subcommittee recommended that the full Committee approve as prefiled 96 BR 83, AN ACT relating to elementary and secondary education. The Subcommittee also recommended that the full Committee approve as amended 96 BR 214 - AN ACT relating to school-based decision making.



**REPORT OF THE 1994-95  
SPECIAL SUBCOMMITTEE ON ENERGY**

**Representative Charles "Preacher" Nelson, Chair**

Rep. Royce Adams	Rep. Leonard Gray
Rep. Eddie Ballard	Sen. Paul Herron
Sen. Charlie Borders	Rep. Tom Kerr
Sen. David Boswell	Rep. Jim Lovell
Rep. Dwight Butler	Sen. Barry Metcalf
Rep. Ron Cyrus	Sen. Virgil Moore
Rep. Bob DeWeese	Sen. Kim Nelson
Rep. Rick Fox	Sen. Joey Pendleton
Rep. Drew Graham	Rep. Katie Stine
Rep. J.R. Gray	Rep. Charlie Walton

LRC STAFF: Linda Kubala, Mary Lynn Collins, and Terisa Roland

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 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 jurisdiction of the Special Subcommittee on Energy is drawn from the Senate Agriculture and Natural Resources Committee and the House Tourism and Energy Committee. The Subcommittee met eleven times through October 1995 and plans one additional meeting during the interim.

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

As the statutory oversight committee for LIHEAP, the committee annually conducts a public hearing on the plan for the next year's Low-Income Home Energy Assistance Program and reports its findings to the Legislative Research Commission. The program is administered by the Department for Social Insurance. Concern over dwindling federal funds for the program surfaced at each of the two public hearings the Subcommittee held. In August of 1995, the Subcommittee wrote a letter to the Kentucky congressional delegation expressing concern over proposed cuts.

LIHEAP benefits are distributed in two components. Early in the heating season, the subsidy component opens and all households at or below 110% of poverty are eligible for payments to be applied to their energy bills. Later in the season a crisis component opens that is limited to those without heat or about to be without heat. Because of previous federal cuts in the program, much of the debate in both the 1994 and 1995 public hearings focused on the allocation of available funds between the subsidy and crisis components. Many favor putting more funds in the subsidy component, saying that adequate subsidy payments will prevent crisis later on. Others counter that the focus should be on the crisis component because those in crisis situations are most in need. In 1994 the Department for Social Insurance initially proposed to eliminate the subsidy program altogether. However, based on comments during Subcommittee deliberations, the Department later amended the plan to include a subsidy component. The Subcommittee approved the plan as amended. The plan approved by the Subcommittee in 1995 is based on anticipated federal appropriations and includes an allocation of \$8.7 million for subsidy and \$4.2 million for crisis.

As part of their consideration of LIHEAP, the Subcommittee also considered the energy efficiency of public housing, particularly tenant-based Section 8 housing where

participants receive vouchers for housing in the private sector. A representative of the Kentucky Office of the U.S. Department of Housing and Urban Development(HUD) told the Subcommittee the housing quality standards required by HUD for tenant-based Section 8 housing are minimal and include no energy efficiency standards. However, the official added that HUD encourages communities to adopt standards that are higher than the minimum housing quality standards, as long as the policy does not make the program unduly restrictive.

### **Telecommunications**

The Public Service Commission briefed the Subcommittee in March, 1995 about changes in long-distance telephone rates and extended area services. The Commission has ordered that intraLATA competition in Kentucky be phased in over a three-year period. This will allow multiple carriers to handle the long-distance calls within Kentucky's 3 telephone regions (LATAs). The Public Service Commission expects that competition for this short-distance traffic probably will bring down rates. The Commission also anticipates a new wave of "slamming," where customers are fraudulently switched from one carrier to another.

Partly in anticipation of the new competition, local exchange companies have proposed alternate area-wide services in many parts of Kentucky. While specific offerings differ, wide area services allow customers to choose calling plans which include calling to nearby exchanges more cheaply than regular toll rates. Some local calling areas, notably around Lexington, have been extended, giving residents a larger toll-free calling area for somewhat higher basic rates.

The Subcommittee also continued its interest in the development of an advanced telecommunications infrastructure in Kentucky. In March, the Kentucky Information Resources Management Commission (KIRM) briefed the Subcommittee on progress implementing the Kentucky Information Highway, a high-capacity communications network being built by a consortium of telephone companies which will link all of Kentucky's 120 counties. The Subcommittee held its June meeting in conjunction with a conference held by KIRM, South Central Bell and others to inform Kentuckians of the potentials of the new network. As a participant in that conference, the Subcommittee took part in a series of teleconferences between the conference site and Frankfort, Paducah, and Toronto.

### **Coal**

Officials from the Tennessee Valley Authority (TVA) briefed the Subcommittee in August, 1994, on the agency's strategy for complying with the Clean Air Act Amendments of 1990. That strategy includes purchasing Colorado and Utah coal for some of its plants. However, TVA assured the Subcommittee that its usage of Illinois Basin coal, which includes the Western Kentucky coal fields, will continue at near current levels and could increase as much as 10% by 1999.

The Subcommittee held its April, 1995 meeting at the Center for Applied Energy Research in Lexington, and toured their laboratory facilities. The Subcommittee was briefed on the status of various research projects and overall research priorities at the Center, and on the outlook for coal exports. Kentucky currently exports about 10% of its coal production. A federal program to assist in export marketing is threatened with cuts. The Subcommittee was told that the future of the federal Clean Coal Technology Program is in doubt, although the 45 projects already authorized probably will be completed. The Subcommittee also considered coal waste products at this meeting. The Department for Surface Mining Reclamation and Enforcement gave the group an overview of action to implement 1994 SB 266, which allows disposal of coal combustion byproducts at surface mining operations. A representative of the Center for Applied Energy Research described ongoing research on coal waste.

Finally, in October 1995, the Subcommittee was briefed on activities of the Ozone Transport Assessment Group, which is composed of environmental officials from most Eastern states.

### **Tire-Derived Fuel**

Kentuckians dispose of some 4 million tires each year. Over the years, this has created massive tire piles, which can pose the dangers of fire and insect infestation, as well as being a nuisance. The Subcommittee held a meeting in May to find out more about the potential for burning old tires as a fuel. A Tennessee Valley Authority (TVA) representative described TVA's success in blending shredded tires with coal to fuel its Allen Steam Plant in Memphis. While this has been technically very successful, the TVA is looking for incentives from Tennessee to help make continued use of tires economically viable as well. The head of Illinois' Used Tire Recovery Program also spoke to the Subcommittee. The Illinois program uses much of the money it collects from a \$1 tax on new tires to develop markets for scrap tires. The state has funded over 90 projects in the past few years, totaling over \$5 million. These funds are targeted mainly to make capital improvements needed for companies to handle tires, whether for combustion or other uses. Several major Illinois industries now co-fire waste tires with coal, and burn more old tires than the state produces each year. Both speakers emphasized that tire-derived fuel (TDF) burns very cleanly, and co-firing with coal actually can improve efficiency and reduce air emissions.

Representatives from the state Natural Resources and Environmental Protection Cabinet presented a draft Waste Tire Strategy to the Subcommittee at the same meeting. The strategy, developed within the Cabinet, with public input, envisions a two-prong approach, addressing both tires currently being generated and abandoned tire dumps. At the time of the meeting, only one application was pending with the Division of Air Quality to burn waste tires.

## **Alternate Fueled Vehicles**

The Subcommittee considered the use of alternate-fuel vehicles, especially by state government, at a meeting early in the interim. The term "alternate fuels" includes compressed natural gas (CNG), propane, ethanol, methanol, electricity, hydrogen, and other biofuels or coal-derived liquids. At that time, representatives from the Division of Energy and the Transportation Cabinet discussed mandates contained in the Energy Policy Act of 1992. This Act requires state governments to add increasing percentages of alternate fuel vehicles to their motor fleets in metropolitan areas beginning in 1995. Because Frankfort is not in a Metropolitan Statistical Area, state government will be required to purchase relatively few cars under the act. The Division of Energy, however, hoped to encourage greater use of alternate fuel vehicles than the minimum requirement. The Transportation Cabinet focused on the problem that the Road Fund does not receive revenue from sales of most alternate fuels, so proliferation of alternate fuel vehicles could require legislation to change taxing policies. The Kentucky Clean Fuels Coalition also spoke at the meeting, emphasizing the many benefits of increased use of alternative fuel vehicles.

Since that meeting was held, a CNG fueling station, accessible both to state vehicles and the general public, was established in Frankfort.

## **Energy Efficiency in State Facilities**

The state spends over \$40 million each year to heat and cool its own buildings. Relatively low-cost energy efficiency and energy management improvements could save 25% of this, or \$10 million a year, based on experience in an ongoing program for schools and hospitals. Additional money also could be saved if the state considered energy efficiency when negotiating lease agreements for buildings. Energy efficiency was one of the main issues considered by the Subcommittee during the prior interim, in conjunction with a bill to create an energy efficiency program in state government. The legislation passed the House but not the Senate, and interest among many parties has remained high. The Subcommittee revisited this issue in a joint meeting with the Budget Review Subcommittee on General Government, Finance and Public Protection, and the Budget Review Subcommittee on Economic Development, Natural Resources, and Tourism, held in September 1995. The committees were able to bring in two speakers with considerable experience in other states through assistance from the National Conference of State Legislatures (NCSL) Energy Project.

## **Prefiled Bills and Administrative Regulations**

The Subcommittee reviewed only one prefiled bill during the interim, BR 416, relating to small telephone utilities. The bill would reduce Public Service Commission regulation of companies which serve fewer than 50,000 subscribers, and deregulate all but the basic rates. Further discussion of this bill is planned for the November 1995 meeting, when the committee may take action.

As part of its statutory responsibilities, the Subcommittee considered and approved three administrative regulations. Two of the regulations, 807 KAR 5:058 and 807 KAR 5:013, were promulgated by the Public Service Commission and relate to utility audits and to integrated resource plans that electric utilities are required to submit. The third regulation, 904 KAR 2:116, promulgated by the Department for Social Insurance, relates to the Low-Income Home Energy Assistance Program (LIHEAP), a federal block grant.



**REPORT OF THE 1994-95  
INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE**

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

Sen. Tom Buford	Sen. James Crase
Sen. Paul Herron	Sen. Joe Meyer
Sen. Denny Nunnolley	Sen. Joseph Pendleton
Sen. Tim Philpot	Sen. Richard Roeding
Sen. Julie Rose	Sen. Larry Saunders
Rep. John Arnold Jr.	Rep. Perry Clark
Rep. Jesse Crenshaw	Rep. Robert Damron
Rep. Bob DeWeese	Rep. Ernest Fletcher
Rep. James Gooch	Rep. Bob Heleringer
Rep. Mary Lou Marzian	Rep. Paul Mason
Rep. Ramsey Morris	Rep. Donnie Newsome
Rep. Stephen Nunn	Rep. Ruth Ann Palumbo
Rep. Ernesto Scorsone	Rep. Katie Stine
Rep. Tommy Todd	

LRC STAFF: Dianna McClure, Bob Gray, Susan Warfield, Robert Jenkins,  
Regina Adcock and Tonya Capito

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**SUBCOMMITTEE ON CHILDREN'S HEALTH NEEDS**

**Representative Ruth Ann Palumbo, Chair**

**Representative Ramsey Morris, Vice Chair**

Sen. James Crase  
Rep. Robert Damron  
Rep. James Gooch  
Rep. Tommy Todd

Rep. John Arnold Jr.  
Rep. Ernest Fletcher  
Rep. Bob Heleringer

**Senator Benny Ray Bailey, Ex-Officio**

**Representative Tom Burch, Ex-Officio**

**SUBCOMMITTEE ON FAMILIES AND CHILDREN**

**Representative Tom Burch, Chair**

**Representative Jesse Crenshaw, Vice Chair**

Sen. Denny Nunnelley  
Sen. Richard Roeding  
Rep. Bob Heleringer  
Rep. Paul Mason  
Rep. Ernesto Scorsone

Sen. Joseph Pendleton  
Rep. Bob DeWeese  
Rep. Mary Lou Marzian  
Rep. Stephen Nunn  
Rep. Katie Stine

**Senator Benny Ray Bailey, Ex-Officio**

**SUBCOMMITTEE ON MONITORING THE  
IMPLEMENTATION OF 94 HOUSE BILL 250**

**Senator Benny Ray Bailey, Chair**

**Senator Joe Meyer, Vice-Chair**

Sen. Tom Buford  
Rep. Stephen Nunn

Rep. Paul Mason  
Rep. Ernesto Scorsone

**Representative Tom Burch, Ex-Officio**

**SUBCOMMITTEE ON LEAD HAZARD REDUCTION**

Senator Gerald Neal, Chair  
Representative Mary Lou Marzian, Vice-Chair

Sen. Paul Herron  
Sen. Larry Saunders  
Rep. Donnie Newsome

Sen. Julie Rose  
Rep. Perry Clark  
Rep. Stephen Nunn

**Senator Benny Ray Bailey, Ex-Officio**  
**Representative Tom Burch, Ex-Officio**

## INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

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

### COMMITTEE ACTIVITY

The Committee has held fifteen meetings through the month of October, 1995. The Committee requested and was granted authorization by the Legislative Research Commission to create the following four subcommittees:

Children's Health Needs;  
Families and Children;  
Lead Hazard Reduction; and  
Monitoring the Implementation of 94 HB 250, the Health Care Reform Act of 1994.

The Committee was authorized to hold an additional meeting in November, primarily for the purpose of considering legislative proposals to be offered by the Cabinet for Human Resources during the 1996 Regular Session by individual members, and for the receipt of subcommittee reports and recommendations.

The Committee reviewed and considered one hundred twenty-six administrative regulations.

The Committee reviewed and considered the following Executive Orders relating to reorganization of executive agencies:

- *Executive Order 94-443*, creating within the Cabinet for Human Resources an Office of Personnel and Budget, and abolishing the Office of Policy and Budget and the Office of Personnel Management;
- *Executive Order 94-1016*, changing the name of the Cabinet for Human Resources, Division of Children's Residential Services, to the Division of Youth Services; and

- *Executive Order 94-1017*, creating the Division of Staff Training in the Department for Social Services and removing the training function from the Divisions of Family Services and Children's Residential Services.

The Committee held legislative public hearings on the following seven Cabinet for Human Resources-administered federal Block Grant Applications:

Child Care and Development;  
 Title XX Social Services Program;  
 Community Services;  
 Maternal and Child Health;  
 Preventive Health and Health Services;  
 Substance Abuse Prevention and Treatment; and  
 Community Mental Health.

The Committee held a preliminary confirmation hearing prior to Senate consideration of the five Kentucky Health Policy Board gubernatorial appointees.

The Committee received:

1. An annual report on the funding from the Substance Abuse and Pregnancy Work Group, which estimated between 3,700 and 5,400 babies per year are harmfully exposed to drugs in utero, and made recommendations for comprehensive statewide prevention services for chemically dependent pregnant women and their children;
2. An update on the implementation of 90 House Bill 425, An Act relating to Acquired Immunodeficiency Syndrome (AIDS), which identified a problem of access to appropriate health care, including placement in an appropriate nursing home bed, and the recommendation that hospital discharge planners receive more education on HIV/AIDS;
3. An implementation report by the Cabinet for Human Resources HB 207, providing for transporting of an alleged mentally ill person to a hospital or psychiatric facility, in lieu of the jailing of the person, prior to an evaluation by a qualified mental health professional;
4. Briefings on the proposed transfer of administration of Central State Hospital and Eastern State Hospital (inpatient psychiatric hospitals) from the Cabinet for Human Resources to the Regional Mental Health/Mental Retardation Boards based in Louisville and Lexington, for the purpose of further building an integrated system of mental health care;
5. An annual report on findings of the Kentucky Cancer Registry, including interventions occurring in earlier stage state diagnosis of breast cancer;

6. A briefing on public assistance programs administered by the Cabinet for Human Resources, including statutory requirements for program beneficiaries, the 1988 Ratable Reduction law, and work training programs and opportunities;
7. A progress report on the implementation of Supported Living and Supported Employment Programs for disabled persons, as viewed by employers, friends, and family members;
8. Recommendation from the Child Care Policy Council that Kentucky should integrate all state and federal funding sources for child care and provide a single point of entry into a subsidized child care system for low-income working families;
9. Comments from parents and family members of residents in the Central State Hospital ICF/MR facility concerning the need to protect the mentally retarded and expressing reservations about placing mentally retarded persons in community based group homes;
10. Testimony from a hospital based social worker, local school employees, and the state social service agency officials on the Commonwealth's child protective services system, which responded in 1993 to reports of suspected abuse or neglect of 55, 706 children;
11. A report from the Secretary for Human Resources on behalf of the Cabinet for Human Resources appointed Child and Adult Protective Services Work Group;
12. Presentation of the Kentucky Home Place Project (Family Health Care Advisors) Evaluation Data;
13. A briefing on Homeless and Housing Issues, including local providers' concerns about pending Congressional policies governing block grants; and
14. Annual report on the activities of the Cabinet for Human Resources hotline for suspected Medicaid fraud and abuse reporting and recommendations for the 1996 General Assembly related to control of Medicaid fraud and abuse.

The Committee recommended for enactment during the 1996 Regular Session a prefiled Joint Resolution (96 RS BR 441) urging all health insurers providing coverage for maternity benefits to provide their insureds who are eligible for obstetrical care with at least seventy-two hours of inpatient care following delivery of a newly born child.

### **Subcommittee on Children's Health Needs**

The Subcommittee on Children's Health Needs of the Interim Joint Committee on Health and Welfare was approved by the Legislative Research Commission in July of 1994

and has held nine regular meetings through October 1995. Issues considered by the Subcommittee include:

1. An overview of the status of child health in Kentucky presented by the Acting Director of the Division of Maternal and Child Health in the Department for Health Services, and the Commissioner of the Department of Mental Health/Mental Retardation Services;
2. A review of the Kentucky Commission for Children with Special Health Care Needs (formerly the Commission for Handicapped Children);
3. Testimony on the needs of parents of children with special health needs, presented by Parents and Partners for Children's Health Care;
4. A review of 94 House Bill 408, which created the Kentucky Early Intervention System, for the purpose of providing services to infants and toddlers with a disability. The system consists of a network of councils which involves parents of children with disabilities and seeks to help families to meet the needs of their children with disabilities, and to reduce the need for future services by intervening early with appropriate services;
5. A progress report on the Kentucky Birth Defects Registry, created by the legislature in 1992 for the purpose of providing information on the incidence, prevalence, trends, and possible causes of birth defects, stillbirths, and high risk conditions among infants;
6. Early and Periodic Screening, Diagnosis and Treatment program (EPSDT). This program is administered through Medicaid and provides screening and treatment services for children under 21 years of age who meet state poverty eligibility standards. EPSDT provides four types of screening: medical, dental, vision and hearing. Federal law imposes a number of requirements on states with respect to offering EPSDT services, including goals on the percent of children eligible for Medicaid that must be screened. Last year, approximately 224,000 children were eligible for Medicaid in Kentucky. According to the annual Medicaid 264 report, about 4,300 received services through EPSDT last year;
7. A discussion of phenylketonuria (PKU), a metabolic disorder that can cause serious problems for newborns if untreated;
8. An implementation update on 94 HB 643, relating to medical child support. This legislation (1) requires the non-custodial parent's employers to permit the parent to enroll the child under any family coverage available to the parent; (2) permits the custodial parent to submit claims for services covered under the policy without the non-custodial parent's consent; and (3) requires the Cabinet for Human Resources to withhold wages from a person who has been ordered to provide health insurance coverage to a child who is eligible for medical assistance; and

9. A report from the state coordinator of the National Safe Kids Campaign, who spoke to the subcommittee about efforts to reduce preventable injuries to children.

The subcommittee did not recommend legislation for consideration for prefilings by the full committee.

### **Subcommittee on Families and Children**

The Subcommittee on Families and Children held thirteen meetings through October 1995. Issues considered by the Subcommittee included:

1. Concerns about personnel and organizational changes within the Family Resource and Youth Services Centers program;
2. Implementation of 1994 legislation relating to child sexual abuse;
3. Timelines for planning and implementation of the federal Family Preservation and Support Services Program Act;
4. Overview of the statewide system of child fatality review implemented in Missouri and the proposal to implement a similar process of review in Kentucky;
5. Update on efforts to locate missing children through administrative actions of the state Vital Statistics Bureau and the local school system;
6. Review of a report from the Department of Education concerning access to school breakfast programs;
7. Progress report on the Kentucky IMPACT Program for families of and children with severe emotional disabilities;
8. Review of the availability of Psychiatric Residential Treatment Facilities (PRTFs) and the creation of a mechanism of periodic reimbursement adjustment for providers;
9. Discussion of the work of the Kentucky Commission on Families and Children;
10. Examination of the concerns of private child care providers with the CHR Office of Inspector General Division of Licensing and Regulation;
11. Review of the implications when children are abused or neglected in psychiatric hospitals, juvenile residential treatment centers, and foster care; report by the agencies responsible for investigating and responding to these incidents; and consideration of alternatives to improve oversight, including creation of an external review entity; and

12. Briefing on child support recommendations from the Office of the Attorney General and the Cabinet for Human Resources.

### **Subcommittee on Monitoring the Implementation of 94 House Bill 250**

The Subcommittee on Monitoring the Implementation of 94 House Bill 250, the Health Care Reform Act of 1994, held fourteen meetings through the month of October. Subject areas of the bill considered by the Subcommittee included: (1) The Kentucky Health Policy Board; (2) Health Data Collection; (3) Fee Disclosure for Providers; (4) Quality Improvement; (5) Self-Referral Restrictions; (6) Twenty-Four Hour Health Coverage; (7) Certificate of Need; (8) The Kentucky Health Purchasing Alliance; (9) Insurance Reforms; (10) Medical Education Reform; (11) Medical Assistance; (12) and the State Employee Health Care Plan Buy-In.

The Subcommittee accomplished the following:

1. Welcomed and were briefed by the five appointed members of the newly created Kentucky Health Policy Board regarding plans and expected timetables for implementing the various health care reform provisions contained in HB 250. Thereafter the Chairman of the Board provided monthly updates to the members of activities of the Board during the preceding month;
2. Welcomed and were briefed by the five appointed members of the Board of Directors of the newly created Kentucky Health Purchasing Alliance regarding plans and expected timetables for implementing the health insurance reform provisions contained in HB 250. Thereafter, the Chairman of the Board and the Executive Director of the Alliance provided monthly updates on the activities of the Alliance during the preceding month;
3. Received periodic updates from Department of Personnel staff on the implementation of the new group health insurance program for low and high risk and uninsurable persons, termed the State Employee Health Care Plan Buy In or "CommonHealth of Kentucky";
4. Received an overview from the Commissioner and staff of the Department of Insurance on the implementation of health insurance reforms contained in HB 250;
5. Received an update from the Secretary for Human Resources on the plans for implementation of the Medicaid Discount Option Program, which was created by HB 250, and periodic updates on the Cabinet's implementation of its responsibilities under Part 11 of HB 250;

6. Received an update from the Secretary for Human Resources on the plans to cut reimbursement rates to physicians pursuant to the recommendation of a consultant;
7. Received testimony from representatives of the insurance industry and health maintenance organizations about the effect of HB 250 and compliance issues;
8. Received an update on the status of lawsuits challenging HB 250 from counsel for the Department of Insurance;
9. Received testimony from the Health Policy Board as to the implementation of the health care cost and quality data collection requirements and as to the data actually collected;
10. Received testimony that the fee disclosure lists have been prepared for all health care providers in Kentucky and should now be posted in a conspicuous place in each provider's office;
11. Received testimony as to the approval of the initial set of practice parameters on acute low back pain and asthma, and the state's development of twenty-two sets of parameters in total;
12. Received testimony that the twenty-four hour health coverage program had been established and that several insurance companies had submitted forms and rates for review;
13. Received testimony about the progress of the development of the 1996-1998 State Health Plan, and the plans for statewide hearings;
14. Received testimony that the 1996-1998 State Health Plan had been adopted;
15. Received testimony that the certificate of need functions had been assumed by the Health Policy Board, and that hearings on pending applications were taking place;
16. Received testimony that the accountable health plans for the Health Purchasing Alliance had been certified, and that premiums for the standard health benefit plans were available;
17. Received testimony that the health insurance reforms were in effect;
18. Received testimony that the medical education reforms were being considered by the Kentucky Council on Higher Education and state medical schools; and
19. Received testimony from individuals and small employers who have obtained health insurance through the Kentucky Health Purchasing Alliance.

Action taken by the Subcommittee included:

1. Recommending, by motion and adoption by voice vote, that the Health Policy Board include consumer members on its standard benefit plan advisory committee;
2. Recommending that the Health Purchasing Alliance renegotiate contracts with accountable health plans to obtain less expensive premiums;
3. Recommending, by motion and adoption by voice vote, that correspondence be forwarded to health insurers in Kentucky inquiring as to whether notices of health care reform measures had been mailed to their insureds, as required by the Department of Insurance; and
4. Recommending that the Department of Insurance actively review the reasonableness of rates and disapprove excessive rates.

The Subcommittee did not recommend specific legislation.

### **Studies Directed Subcommittee on Lead Hazard Reduction**

1994 SB 289 - AN ACT relating to lead hazard reduction directs the appropriate committee of the Legislative Research Commission to study lead hazard reduction in the Commonwealth and the need for, and methods of, licensing and certifying lead hazard reduction personnel. The Subcommittee on Lead Hazard Reduction was appointed to further study the issue. The study report is to be presented no later than October 31, 1995.

The Subcommittee on Lead Hazard Reduction held eleven meetings through October 1995. Issues considered by the Subcommittee included:

1. General discussion of the health implications of lead hazards and lead poisoning;
2. Proposed federal regulations governing the certification of lead hazard abatement professionals, presented by a representative of the U.S. Environmental Protection Agency;
3. Responsibilities of the Cabinet for Human Resources and the Natural Resources and Environmental Protection Cabinet for the implementation of the federal requirements;
4. Considerations in determining which Cabinet will have primary responsibility for the certification and accreditation program development;

5. Analysis from the National Conference of State Legislatures regarding federal lead legislation and regulations and guidance as to program development;
6. Availability of federal grants to assist in program development and the provisions in the grant application submitted by CHR;
7. Public hearing concerning the implications of the federal legislation for the Commonwealth;
8. Discussion of North Carolina's identification of rural and urban lead hazard risks;
9. Implications of the loss of an \$800,000 lead screening grant from the federal Centers for Disease Control;
10. Status of suggestion to include childhood blood-lead screening test in the coverage available under the Kentucky Health Policy Board standard benefit plans;
11. Extent to which Medicaid-eligible children are receiving blood lead-level test required under Early Periodic Screening Diagnosis and Treatment (EPSDT) services;
12. Suggestion to include blood lead-level screening test in pre-admission requirements for school age children; and
13. Consideration of CHR legislative proposal to implement certification and accreditation program and address lead poisoning screening needs of children.



**FINAL REPORT OF THE 1994 - 1995  
INTERIM JOINT COMMITTEE ON JUDICIARY**

**Senator Kelsey Friend (Co-chair)  
Representative Mike Bowling (Co-chair)**

Sen. Charles Berger  
Sen. David Karem  
Sen. Gerald Neal  
Sen. Tim Philpot  
Sen. David Williams  
Rep. Jon Ackerson  
Rep. Perry Clark  
Rep. Herbie Deskins  
Rep. Kelsey Friend, Jr.  
Rep. Bob Heleringer  
Rep. James Lovell  
Rep. Gross Lindsay  
Rep. Jon David Reinhardt  
Rep. Dave Stengel

Sen. Ernie Harris  
Sen. Mike Moloney  
Sen. Kim Nelson  
Sen. Elizabeth Tori  
Sen. Gex Williams  
Rep. Stan Cave  
Rep. Jesse Crenshaw  
Rep. Ernest Fletcher  
Rep. Charles Geveden  
Rep. Kathy Hogancamp  
Rep. Thomas Kerr  
Rep. Frank Rasche  
Rep. Arnold Simpson  
Rep. Katie Stine

LRC STAFF: Norman Lawson, Jr., Scott Varland, Jon Grate and Mac Lewis

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**SUBCOMMITTEE ON CORRECTIONS AND SENTENCING**

**Representative Gross Lindsay, Co-Chair.**

**Senator Kim Nelson, Co-Chair**

Sen. Charles Berger  
Sen. Ernie Harris  
Rep. Jon Ackerson  
Rep. Perry Clark  
Rep. Ernest Fletcher  
Rep. James Lovell  
Rep. Arnold Simpson

Sen. Kelsey Friend  
Sen. Tim Philpot  
Rep. Mike Bowling  
Rep. Jesse Crenshaw  
Rep. Kelsey Friend, Jr.  
Rep. Jon David Reinhardt  
Rep. Katie Stine

**SUBCOMMITTEE ON JUVENILE CRIME**

**Representative Charles Geveden, Co Chair**

**Senator Gerald Neal, Co-Chair**

Sen. Kelsey Friend  
Sen. Michael Moloney  
Sen. Elizabeth Tori  
Sen. Gex Williams  
Rep. Stan Cave  
Rep. Herbie Deskins  
Rep. Bob Heleringer  
Rep. James Lovell  
Rep. Jon David Reinhardt  
Rep. Dave Stengel

Sen. David Karem  
Sen. Tim Philpot  
Sen. David Williams  
Rep. Mike Bowling  
Rep. Perry Clark  
Rep. Kelsey Friend, Jr.  
Rep. Kathy Hogancamp  
Rep. Frank Rasche  
Rep. Arnold Simpson

## **INTERIM JOINT COMMITTEE ON JUDICIARY**

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

### **Committee Activity**

The first meeting of the Interim Joint Committee on Judiciary was held on Tuesday, September 20, 1994, with the announced purpose of interviewing the Governor's appointees to the Parole Board. The first interviewee was Ms. Lutitia Papallier of Louisville, who was previously employed by the Human Rights Commission. The second interviewee was Mr. A. Paul Reece, also of Louisville, who had been with the Louisville Division of Police for 27 years before his retirement. The third interviewee was Mr. Homer Shumate of Middlesboro, who had been a funeral director and a deputy coroner. The fourth interviewee, Mr. James A. Rankin had been hospitalized the morning of the hearing and was unable to attend. No action was taken on the interviewees.

The next meeting was held on January 26, 1995, during which the discussion centered on the topic of subcommittees. It was agreed that the committee would request the Legislative Research Commission to give its permission for the formation of a Juvenile Crime Subcommittee and a Subcommittee on Corrections and Sentencing. The approval for the subcommittee was subsequently given by the Legislative Research Commission.

The next meeting was held on February 21, 1994, during which the co-chairs of the Subcommittees were named. Discussion then turned to prospective topics of discussion for each subcommittee.

The next meeting was held on March 21, 1995, during which time the committee approved 96 RS BR 64 for prefiling. This bill relates to the priority of liens for the care of livestock and horses.

The next meeting was held April 18, 1995, and, there being no substantive business the committee adjourned.

The next meeting was held on May 16, 1995 during which the issue relating to state agency contracts with private attorneys was discussed. It was indicated that other states had saved considerable sums for legal work through using state employee attorneys. The committee also approved a Governor's reorganization order relating to changes within the medical examiner program of the Justice Cabinet.

The next meeting was held on June 29, 1995, and included a general discussion of the upcoming Special Session of the General Assembly. The committee agreed to forego a July meeting in order to meet during the special session.

The next meeting was held on August 15, 1995, during which the committee discussed problems with rape legislation. Two witnesses discussed the impact of rape on their daughters. The speakers asked that rapists spend a longer time in prison and that there be no probation for persons convicted of rape. The committee voted to censure U.S. Representative Souder for intemperate remarks made about Kentucky.

The next meeting was held on September 19, 1995, and the resolution relating to Congressman Souder was rescinded.

The final meeting was held on October 17, 1995, during which time the Co-chairs of the Legislative Task Force on Domestic Violence, presented the preliminary recommendations of the Task Force on Domestic Violence, including improvements in services to victims of domestic violence, a recommendation that persons charged with violating an emergency protective order spend 24 hours in jail prior to release, and information on how service of domestic violence orders and emergency protective orders had improved during the course of deliberations of the Legislative Task Force on Domestic Violence. No bill draft was presented. Next, the co-chairs of the Subcommittee on Juvenile Crime and the Subcommittee on Corrections and Sentencing made reports as to the activities of their subcommittees during the interim. There were no specific bill drafts presented.

### **Subcommittee Activity** **Subcommittee on Juvenile Crime**

The first meeting of the Subcommittee on Juvenile Crime was held on March 21, 1995. The first speaker was Secretary of the Cabinet for Human Resources (CHR), accompanied by the Justice Secretary who spoke about the new treatment facility for violent juveniles to be jointly operated by both Cabinets in Louisville. They were followed by representatives of the Kentucky State Police, who detailed the nature and extent of juvenile crime and violent juvenile crime in Kentucky and the nature of the offenses committed. The next speaker was from the Administrative Office of the Courts, who presented information on Juveniles who had been tried as adults and the crimes for which

they were tried. Next, Commissioner of the Department for Social Services, from the Cabinet for Human Resources, spoke on the juvenile programs and services of the Cabinet for Human Resources. Next, the District Judge from Paducah detailed various innovative juvenile programs in his district and gave his recommendations for changes in the juvenile law. The final speaker was the Corrections Commissioner, who spoke about current and planned juvenile detention facilities, both locally operated and those under construction or planned by the state.

The next meeting of the subcommittee was held on April 18, 1995. The Secretary of Human Resources who gave the subcommittee a detailed briefing on Cabinet juvenile facilities and services. A representative of Kentucky Youth Advocates then gave a brief history of and the philosophy behind the Kentucky Unified Juvenile Code. A private attorney from Northern Kentucky brought a minister from Northern Kentucky who spoke about the protracted difficulties that he and his family had experienced in gaining Cabinet for Human Resources services for his troubled adopted child. The next speaker was an Assistant Jefferson County Attorney, who spoke on parental responsibility, forcing parents to participate in the system and in the correction of their children, problems that he has found with the juvenile code and recommendations for their solution. The final speaker that day was a District Judge of Frankfort, who spoke of the juvenile code and related problems from a judicial perspective.

The next meeting of the subcommittee was held on May 16, 1995, with the first speaker being Commissioner of the Department for Social Services of the Cabinet for Human Resources. She and other CHR speakers spoke on CHR's needs, youth services programs of CHR, and methods of parental discipline. The speakers from the Cabinet for Human Resources were followed by a private corrections expert from Florida who detailed to the committee how to deal with private services and facilities vendors. A representative of Eastern Kentucky University cautioned the committee about avoiding "fad" programs, the need for aftercare, program evaluation, and fitting the programs to the needs of the state. Next, a speaker from the Texas Youth Commission described the history of youth corrections in Texas, the current programs for additional facilities and programs, and the continuum of programs and services in Texas, which are based on a progressive sanctions model. The final speakers were from private vendors who operated juvenile facilities and services throughout the United States.

The next meeting of the subcommittee was held on June, 1995, and the subcommittee continued hearing from private vendors about their programs, services, and costs. The next speaker was the Attorney General, who spoke of a legislative program to 1. make violent juvenile felony records public; 2. waive juveniles to circuit court for trial on violent offenses; 3. place restrictions on diversion of any juvenile charged with a sex offense, arson, or cruelty to animals; 4. provide for notification of school authorities on the arrest of a juvenile for a violent offense. The next speaker was an Assistant County Attorney from Clay county, who spoke of his frustrations in having few if any options for dealing with juvenile offenses and the need for additional preadjudication juvenile detention facilities. The next speaker was an Assistant Fayette County Attorney, who

spoke of successes in the juvenile court programs in Fayette County and how these could be improved upon by additional facilities and programs. The county attorneys were followed by District Judges, who spoke of the need for additional programs and services, particularly in rural areas which do not have the programs and services available in large cities. The final speakers, from the Administrative Office of the Courts, described the duties and activities of court-designated workers, and the success of diversion programs and law-related education programs which they present throughout the state. The final speaker was of the Harvard Medical School, who has done research on violent juvenile offenders and murderers and spoke of her research findings and recommendations for treatment of these offenders.

The next meeting of the subcommittee was held on August 15, 1995. The first speaker was the Secretary of Human Resources, who described in detail the conditions at Kentucky Youth Facilities operated by the Cabinet for Human Resources, and the demands of the U.S. Department of Justice for the correction of the conditions relating to constitutional rights, discipline, education, abuse reporting, and other matters, as well as the need to enter into a consent decree with the federal government for the correction of the conditions. The next speakers represented private providers and program vendors of facilities for troubled youth who described their programs and the costs of the programs. Programs and facilities offered ranged from counseling alternatives to incarceration to wilderness programs and aftercare following confinement at state or private facilities.

The next meeting of the subcommittee was held on September 19, 1995 with the first speaker from the Department of Corrections. She described the history of consent decrees in the adult corrections programs, what to look for in a consent decree, the costs involved and time involved in complying with a consent decree, and the desirability of litigating conditions rather than entering into a consent decree. The next speakers, from the Jefferson County Department of Human Services, described alternatives to incarceration, diversion, aftercare, and other programs offered in Jefferson County with recommendations for additional programs and additional funding. They also described recent requests for proposals from private vendors which resulted in the county determining to build and operate its own facilities. The subcommittee then proceeded to a discussion of potential legislative proposals ranging from additional detention facilities to the creation of a study commission on juvenile law. No decisions were made on the recommendations.

The final meeting of the subcommittee was held on October 17, 1995. The Administrator of the federal Office of Juvenile Justice and Delinquency Prevention spoke on the emergence of violent juvenile crime as a national problem and who detailed recent federal strategies available for adoption by the states to deal with violent juvenile crime, based on a progressive sanctions model. He was followed by a representative of the school boards association, who described crime prevention and response programs in the public schools, new initiatives against school violence, and the need for schools to know of and be able to deal with juveniles who commit crime both in and out of school, in order to protect students and teachers.

## **Subcommittee on Corrections and Sentencing**

The first meeting of the Subcommittee on Corrections and Sentencing was held on March 21, 1995. At that meeting, the Kentucky State Police presented data on the nature and extent of adult crime during the past five years. The information showed an increase in adult violent crime during the five year period. The next speaker was the Commissioner of Corrections who spoke about state correctional institutions, private prisons, and the jail situation, presenting information on inmate population, costs of incarceration, and changes in the nature of crimes for which persons were incarcerated. The next speakers were District Judges from Northern Kentucky who spoke of the need for additional pre-trial and post-trial detention facilities. The judges indicated that the lack of facilities causes juveniles to believe that there are no repercussions for their actions. The judges also called for a wider range of sanctions which could be applied.

The second meeting of the Subcommittee on Corrections and Sentencing was held on April 18, 1995. The first speaker was the Commissioner of Corrections, who detailed recent jail construction efforts and the need for additional pre-trial juvenile detention beds. He also spoke of the development of jail standards and related problems as a result of the implementation of jail standards. Other speakers at the meeting included the General Counsel of the Department of Corrections, who updated the committee on current prison and jail lawsuits, and a representative of the Finance Cabinet who talked about recent prison construction projects and the relative costs of Kentucky institutions compared with construction costs and methods in other states.

The next meeting of the subcommittee was held on May 16, 1995 and speakers included; an expert on prison privatization from Florida who spoke on private prisons and items a state should consider when dealing with private prison providers, and the Director of Institutions for the Texas Youth Commission, who spoke of the development of the Texas Youth Commission, progressive sanctions' programs in Texas, and the types of programs and services offered in Texas. Facilities and programs in Texas ranged from counseling to boot camps and 300-bed maximum security facilities. A representative of the Juvenile Detention Association and professor at Eastern Kentucky University spoke about private juvenile facilities. He was followed by speakers from the leading private prison and juvenile facility vendors in the United States, who described their costs, program, and services.

The next meeting of the subcommittee was held on June 20, 1995. The first speaker was from the Harvard Medical School, spoke of her research with violent juvenile offenders and the counsel that she was providing the Cabinet for Human Resources and the Department of Corrections regarding the operation of the new Kentucky facility for violent juvenile offenders to be opened in Louisville. She was followed by the Justice Cabinet Secretary, who described the situation Kentucky faces with regard to incarceration of children in adult jails, including the possible loss of \$800,000 in federal funding for juvenile programs. He was followed by additional private prison vendors and

Commonwealth's and County Attorneys. The prosecutors spoke of the need for additional prison and juvenile facility construction and for the stiffening of sentences for violent acts. The next speakers were county judges executive who spoke of problems with state standards for jail facilities and the lack of proper and timely reimbursements for jail medical and other costs. They urged the subcommittee to look into relaxation of jail standards, a better system of paying medical costs, and prompt reimbursement of counties for fees.

The next meeting of the subcommittee was held on August 18, 1995 with Mr. Ron Stepanik of the Eckert Foundation describing programs for juvenile and adults who were not being committed to jail. Other speakers for private vendors followed. The next speakers were the staff of the Cabinet for Human Resources, who described their juvenile facilities and services. The next speaker was Fulton County Jailer, who spoke of the success of the Class D felon program in his county. The next speakers described the success of alternatives to detention programs throughout the state and the status of grants that expand this type of program for nonviolent felony offenders.

The next meeting of the subcommittee was held on September 19, 1995, with the first speaker being the General Counsel of the Department of Corrections, who gave the subcommittee a complete briefing on constitutional corrections of confinement, limitations imposed by federal laws, such as the Americans with Disabilities Act and the Religious Freedom Restoration Act. She also spoke of prisoner rights of access to the courts. The Corrections Commissioner who responded to a wide variety of committee questions relating to jails, jail standards, jail construction, and consent decrees.

The final meeting of the subcommittee was held on October 17, 1995 and the subcommittee questioned members of the jail standards task force with regard to the proposed relaxation of some jail standards followed by a presentation by Commissioner of the Department of Public Advocacy in the Cabinet for Public Protection on public advocacy services provided to inmates either on the Department's own initiative or by court order. There was then a general discussion of priorities for legislation, but no bill drafts were presented.



**REPORT OF THE 1994-1995  
INTERIM JOINT COMMITTEE  
ON LABOR AND INDUSTRY**

**Senator Robert Leeper, Co-Chair  
Representative Ron Cyrus, Co-Chair**

Sen. David Boswell

Sen. Kelsey Friend

Sen. Mike Moloney

Sen. Virgil Moore

Sen. John David Preston

Sen. Albert Robinson

Sen. Julie Rose

Sen. Dan Seum

Sen. Tim Shaughnessy

Sen. David Williams

Rep. Rocky Adkins

Rep. Mark Brown

Rep. Jeffrey Buis

Rep. Denver Butler

Rep. Hubert Collins

Rep. Donald Farley

Rep. Kelsey Friend, Jr.

Rep. Walter Gee

Rep. Joni Jenkins

Rep. Charles Nelson

Rep. Fred Nesler

Rep. Stephen Nunn

Rep. Charles Siler

Rep. Jim Wayne

Rep. James Zimmerman

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



**SUBCOMMITTEE ORGANIZATION  
AND MEMBERSHIP**

**EMPLOYMENT STANDARDS  
AND LABOR RELATIONS**

Rep. Rocky Adkins, Chair  
Rep. Hubert Collins  
Sen. Kelsey Friend  
Rep. Kelsey Friend, Jr.  
Rep. Preacher Nelson  
Rep. Fred Nesler  
Rep. Stephen Nunn  
Sen. John David Preston  
Sen. Albert Robinson  
Sen. Julie Rose  
Rep. Charlie Siler  
Rep. Jim Wayne  
Sen. David Williams

**JOB TRAINING, LICENSING,  
AND APPRENTICESHIP**

Rep. Mark Brown, Chair  
Sen. David Boswell  
Rep. Jeffrey Buis  
Rep. Denver Butler  
Rep. Don Farley  
Rep. Walter Gee  
Rep. Joni Jenkins  
Sen. Mike Moloney  
Sen. Virgil Moore  
Sen. Dan Seum  
Rep. Jim Zimmerman

**EX-OFFICIO MEMBERS OF ALL SUBCOMMITTEES**

**Sen. Bob Leeper  
Rep. Ron Cyrus**

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

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

### **COMMITTEE ACTIVITY**

During the 1994-95 Interim, the Interim Joint Committee on Labor and Industry held 15 regular meetings and one special meeting before November 1, 1995. The Legislative Research Commission authorized the committee to also meet in November and December to conclude its study of the workers' compensation special fund.

The Committee was divided into two subcommittees: the Subcommittee on Job Training, Licensing, and Apprenticeship and the Subcommittee on Employment Standards and Labor Relations.

The Committee held its first meeting of the 1994-1995 interim in May, 1994. The Committee began meeting early in the interim so that it would have sufficient time to monitor implementation of HB 928, the workers' compensation reform legislation enacted by the 1994 General Assembly.

At the meeting in May, 1994, officials from the Labor Cabinet provided an overview to the Committee on the provisions in HB 928 that required immediate attention. These provisions included: appointment of a new commissioner and a chief administrative law judge for the Department of Workers' Claims; promulgation of administrative regulations and implementation of other measures to reduce medical costs in the workers' compensation by at least twenty-five percent; employment of additional staff for the occupational safety and health program and the self-insurance branch; and appointment of a board of directors for the Kentucky Employers' Mutual Insurance Authority (KEMI), a new state-operated workers' compensation insurance mechanism with a statutory start-up date of no later than September 1, 1995.

The acting commissioner of the Department of Workers' Claims informed the committee that a consulting firm had been retained to: review the medical fee schedules; review other medical requirements in the workers' compensation program; review the overall medical costs in the program; and make recommendations to the commissioner on how to reduce medical costs by at least twenty-five percent as required by HB 928.

The chairman of the workers' compensation nominating commission informed the committee that the commission had made progress in developing a list of nominees for the positions of commissioner and the chief administrative law judge.

The committee also reviewed, without objection, amendments to the following administrative regulations relating to occupational safety and health: 803 KAR 2:300, 2:301, 2:304, 2:306, 2:307, 2:308, 2:309, 2:311, 2:312, 2:313, 2:317, 2:319, 2:320, 2:402, 2:403, 2:404, 2:405, 2:406, 2:407, 2:408, 2:409, 2:410, 2:411, 2:413, 2:414, 2:418, 2:420, 2:423, 2:424, 2:425, and, 2:500. An amendment to an unemployment insurance administrative regulation, 903 KAR 5:250, was also reviewed without objection.

The committee next met in July. The major topics on the agenda were an update on HB 928 and a status report on the effectiveness of 1992 HB 544, relating to deductible insurance policies for workers' compensation. Representatives for the Department of Insurance reported that insurance carriers were complying with the requirements of HB 544 by offering deductible policies to their policyholders.

The new commissioner of the Department of Workers' Claims was appointed in June. He was introduced at the July meeting of the committee, and he provided an update on the implementation of HB 928. The commissioner said the department had been reorganized internally to promote better efficiency. Part of the internal reorganization included creation of a division for information and research. The commissioner reported that the new ombudsman program had been established and was operating. He commented that the introduction of the ombudsman program and the addition of enforcement personnel should improve compliance with the provisions of the workers' compensation law.

The new chief administrative law judge was introduced to the committee. She explained a proposed administrative regulation that contained an expedited medical dispute resolution procedure mandated by HB 928.

The committee reviewed, without objection, Executive Order 94-460, which transferred the Division of Special Fund from the Department of Workers' Claims to the Department of Workplace Standards. The transfer was made to avoid a possible conflict of interest in the administration of the workers' compensation program.

The next item discussed was HCR 60, a resolution enacted by the 1994 General Assembly, which required a study of independent contractors and their compliance with occupational safety and health regulations, and unemployment insurance, income tax, and workers' compensation requirements. LRC referred HCR 60 to the committee for completion. The committee assigned the HCR 60 study to its Subcommittee on Job Training, Licensing, and Apprenticeship.

The LRC also referred a workers' compensation issue to the committee that was raised by the Administrative Regulations Subcommittee. The subcommittee requested that

the committee consider legislation that would expand the authority of workers' compensation administrative law judges to lump sum workers' compensation benefits. To date, the committee has taken no action on the issue.

In August, the committee heard an explanation of a cost analysis that was done by a national ratemaking and data collection entity on the effects of HB 928. The analysis concluded that HB 928 should result in an overall savings of approximately 11.7%, which would translate into savings of approximately \$80 million.

Despite the projected savings of HB 928, the committee was informed that the workers' compensation insurance industry was requesting a rate increase of 20.2%. Testimony from the insurance industry indicated that the request for a rate increase took into account the projected savings from HB 928.

In response to concerns brought to the attention of the committee, the budget of the Kentucky Workers' Compensation Funding Commission was reviewed. The commission was created in 1987 to administer collection and investment of assessments for the workers' compensation special fund. Since its creation, the budget of the commission has increased more than 300%.

Executive Order 94-577, creating the Office of Training and Research within the Workforce Development Cabinet, and transferring the staff of the Job Training Partnership Act from the Department for Employment Services in the Cabinet for Human Resources to the Workforce Development Cabinet, was also reviewed at the August meeting. The executive order facilitated consolidation of training and other functions relating to the workforce in Kentucky. No opposition to the executive order was expressed.

Completing a lengthy agenda, the Commissioner of the Department of Workers' Claims explained the procedures required by an administrative regulation for the approval of managed care plans for workers' compensation; informed the committee about a decision by the Workers' Compensation Board that retroactively applied the revisions to Retraining Incentive Benefits (RIB) to claims that were pending on the effective date of HB 928; and, provided an overview and justification for Executive Order 94-724, which created a research branch in the Department of Workers' Claims. The committee reviewed the executive order and expressed no opposition to it.

The fourth meeting was held in September at Kentucky Dam Village State Park in Gilbertsville, during the Labor-Management Conference conducted annually by the Labor Cabinet. A representative from the Economic Development Cabinet gave a presentation of the Kentucky Strategic Plan for Economic Development, and summarized the goals, strategies, and tactics of the plan.

Another item on the agenda was a discussion of overlapping and possibly duplicative provisions in HB 250 (the 1994 health care reform legislation) and HB 928. The chairman of the Health Policy Board and the Commissioner of the Department of

Workers' Claims explained the provisions. They reviewed four similar provisions in the two pieces of reform legislation: 24-hour pilot projects, medical records provisions, practice parameters, and data collection. Both speakers stressed that the Health Policy Board and the Department of Workers' Claims were working cooperatively on these matters and that they would try to eliminate any duplication that might occur.

The committee met again in September. The meeting was held for the purpose of allowing the committee to review the qualifications of those appointed to the following positions: members of the board of directors for KEMI; a member of the workers' compensation board; an administrative law judge; the chief administrative law judge; and the commissioner of the department of workers' claims. Under the provisions of the workers' compensation law, the positions are appointed by the governor and subject to the consent of the Senate of the General Assembly. The committee's review was a preliminary review to the confirmation proceedings of the Senate. The committee expressed no objections to the appointees.

The fifth meeting was held in November. A major topic of discussion during that meeting was a crisis in the Kentucky Workers' Compensation Insurance Plan (KWCIP). The crisis developed over a question of whether insurance carrier participation in the KWCIP was mandatory. The KWCIP was a workers' compensation residual market mechanism or assigned risk pool. All workers' compensation carriers in the Commonwealth were assessed to finance deficits of the KWCIP. The assessments were very controversial and were blamed for the disappearance of the workers' compensation insurance in Kentucky. The KWCIP was replaced by KEMI on September 1, 1995.

The Commissioner of the Department of Workers' Claims and the Branch Manager for Self-Insurance discussed the status of self-insurance and the self-insurance provisions of HB 928. They explained that there is a crisis in the self-insurance industry, especially with group self-insurance. There was a question as to whether the existing administrative regulations allow the formation of heterogeneous groups. Problems other states are facing with heterogeneous groups were shared with the committee.

The chairman informed the committee that the Legislative Research Commission directed the committee to review the Southeast Coal situation and report its findings to the Commission by the end of the interim. He indicated that the committee would begin its review at a later date.

The sixth meeting was held in December. Resolutions honoring five committee members who were leaving the General Assembly in January were adopted.

An update of the residual market capacity problem and the controversy surrounding the KWCIP was provided by an attorney from the Department of Insurance. He also reviewed the pending workers' compensation rate filing for coal. If approved, the rates for the coal industry would have an average increase of 211%. Rates for the coal

industry had not increased since 1987, while non-coal rates have increased approximately 100% since 1987.

The chairman of the board of KEMI gave a status report on the board's efforts to hire a manager, secure initial start-up funding, and begin operating by September 1, 1995.

Subcommittee reports from the chairmen of the Subcommittee on Job Training, Licensing, and Apprenticeship, and the Subcommittee on Employment Standards and Labor Relations were given.

During its seventh meeting of the Interim, which was held February 9, the committee reviewed several administrative regulations concerning the workers' compensation program. Most discussion occurred on 803 KAR 25:089 & E, the revised physicians' fee schedule. The Commissioner of the Department of Workers' Claims, assisted by a representative with the consulting firm hired to revise the schedules, explained the various changes that would accomplish an approximate 25% reduction in medical costs, as required by HB 928. Representatives of affected groups expressed their views on the revised physicians' fee schedule. A representative from a physical therapy group objected to the lower reimbursement they will receive under the new schedule, due primarily to "cascading" of charges. "Cascading" refers to a reimbursement method which pays a declining amount (less than 100% of the rate allowed for the CPT procedure code) for multiple procedures performed on the same patient on the same day.

803 KAR 25:091 & E, which contained the hospital fee schedule, was also reviewed. A representative from the Kentucky Hospital Association had a concern regarding the calculation of the cost-to-charge ratio. Under the proposed regulation, hospitals must include the income generated from physicians who are employed as staff, but may not deduct their salary. The commissioner concurred that this was an inequitable practice and agreed to amend the regulation to allow physicians' salaries to be included as a cost.

803 KAR 25:110 & E contained certification requirements for managed care plans. The commissioner reported that five managed care plans have been approved.

Finally, 803 KAR 25:120 was reviewed. The regulation contained requirements for approval of training institutions for retraining incentive benefits. The commissioner reported that no institutions have applied for certification.

In the March, 1995, committee meeting, 803 KAR 25:160, an administrative regulation relating to allowable reimbursement levels for workers' compensation medical depositions, reports, and medical records, was discussed. According to the chief administrative law judge with the Department of Workers' Claims, a committee of doctors and lawyers surveyed providers and then developed the proposed schedule. The maximum charge for a medical report and for completing a Form 107 or 108 is \$200. Medical depositions may not exceed a charge of \$250 for the first half hour and \$100 for each

subsequent 15-minute period. Copying charges for medical records were limited to 50 cents per page plus postage.

The co-chairs informed the members that if they had no objections, the committee's focus for the remainder of the interim would be on reviewing the problems of the Special Fund and developing recommendations for the 1996 General Assembly. They said they asked LRC to hire two consultants to advise and assist the committee in its efforts to find solutions to the problems of the Special Fund.

The chairman of the Subcommittee on Job Training, Licensing, and Apprenticeship gave a report on the subcommittee meeting held earlier in the day.

At the ninth committee meeting, which was held in April, 1995, administrative regulations relating to the occupational safety and health program and one regulation relating to the calculation of the attorney fee discount under workers' compensation were reviewed. Additionally, the committee heard a presentation on the Special Fund by the Commissioner of the Department for Workers' Claims. The commissioner gave a history of the Fund since its inception in 1946. He said it was created to provide employers an incentive to hire disabled workers. The Fund's cost and scope were modest until 1972, when a statutory change expanded coverage to include dormant non-disabling diseases or conditions. Revisions in 1987 reduced the growth in the unfunded liability of the Fund, which at that point had reached an estimated \$1.7 billion but...the liability has continued to grow despite the efforts made in 1987.

The commissioner concluded his remarks by suggesting that the Special Fund is really not meeting the goals for which it was originally intended, and therefore, it may be time for the legislature to consider abolishing or phasing out the Fund. Several legislators then expressed concerns about the possible impact abolishing the Fund might have on various industries, particularly coal.

The meeting was concluded with the co-chairmen advising the committee members that, if the members had no objections, they were going to request that the auditor of public accounts conduct an audit of the Kentucky Workers' Compensation Funding Commission, to determine whether funds were being spent in accordance with the Kentucky Revised Statutes. No objections were expressed.

Topics reviewed at the committee's tenth meeting, which was held in May, included Executive Order 95-289, which transferred the Department of Employment Services from the Cabinet for Human Resources to the Cabinet for Workforce Development, a status report on KEMI, and a status report on an audit of the Workers' Compensation Funding Commission, undertaken at the committee's request.

The Secretary of Workforce Development and the Commissioner of the Department of Employment Services explained the purpose of Executive Order 95-289. The purpose was to place all major employment and training activities in state government

within a single cabinet. The affected employees would not lose merit system protection. The unification follows the federal trend of consolidating related job training and workforce activities. The committee approved the transfer executive order.

The CEO of KEMI was introduced to the committee, and he described the progress made to date in setting up the Authority.

Representatives from the State Auditor's Office presented a time schedule for completion of the Kentucky Workers' Compensation Funding Commission audit, which they expected to complete by the end of the month.

A report from the chairman of the Subcommittee on Employment Standards and Labor Relations was given.

The operation of the Special Fund was the focus of the committee's June, 1995, meeting. The Deputy Secretary of the Labor Cabinet, the Acting Director of the Division of Special Fund, and the Acting Director of the Workers' Compensation Funding Commission explained why demands on the Fund have grown, how the Fund makes assessments, and how those assessments are expended. Approximately 85% of the assessments pays for benefits, while approximately 15% pays for administration.

Following their presentations, the Commissioner of the Department of Workers' Claims gave a presentation regarding loss statistics for the Special Fund.

The CEO of KEMI reported to the committee that KEMI's board approved an initial rate structure which included higher rates, especially for coal. The CEO attributed this to the strict financial standards contained in KEMI's enabling legislation. Considerable discussion ensued between committee members and the CEO, with the result that the committee voted to communicate its concern in writing to the Governor and legislative leadership. Additionally, the letters were to request consideration of KEMI as an additional topic for the anticipated Extraordinary Session of the General Assembly, which was subsequently held in July.

At the July meeting, representatives from the State Auditor's Office presented the results of an audit of the Kentucky Workers' Compensation Funding Commission. Additionally, the consultants hired by LRC to review the Special Fund spoke about their preliminary findings and provided insights into how these funds have fared in other states in recent years. Most discussion centered on the possible ramifications of phasing out or eliminating the Special Fund, and the general relationship between economic development efforts and the costs of workers' compensation. One of the consultants said Kentucky is a fairly expensive state in which to do business when the premiums for workers' compensation, combined with the additional assessments for the Special Fund costs in other states.

The meeting concluded with a report by the chairman of the Subcommittee on Job Training, Licensing, and Apprenticeship.

The thirteenth meeting, held in August 1995, began with a report by the Commissioner of the Department of Workers' Claims and the chief ombudsman for the Department of Workers' Claims concerning the new mediation pilot project for workers' compensation. The pilot project was scheduled to begin in September in six locations throughout the Commonwealth.

The next item on the agenda was an update on the current situation regarding the Southeast Coal bankruptcy. The presentation was made by the manager of the Self-Insurance Branch in the Department of Workers' Claims and one of his employees. A brief history of the Southeast Coal situation was provided. The liability from the Southeast situation is estimated at approximately \$13 million. The committee was informed about the attempt to utilize some of the funds held in escrow by Kentucky Utilities, pursuant to the court ruling in a lawsuit between Southeast Coal and Kentucky Utilities over the contract price of coal.

The next topic was a report by the chairman of the Subcommittee on Job Training, Licensing, and Apprenticeship, of its meeting held earlier in the day. He said the Subcommittee heard a report on HCR 60, a study of independent contractors.

The coal severance tax issue was raised by members of the committee as a possible source of funding and relief for the funding problems of the workers' compensation Special Fund. The economic development fund and the economic assistance fund return money generated by the tax to local governments. It was suggested that representatives from local government be invited before the committee to discuss the possibility of utilizing part of those funds for the Workers' Compensation Special Fund.

The fourteenth meeting of the interim was held on September 19, 1995, in conjunction with the annual Labor/Management conference held at Kentucky Dam Village State Park. The main topic on the agenda was a presentation on the HCR 60 study on independent contractors, and related testimony from interest groups. The chairman of the Subcommittee on Job Training, Licensing, and Apprenticeship gave an overview of the study and reviewed the recommendations. Representatives from Associated General Contractors, Kentucky Building Trades Council, Ky. State District Council of Carpenters, Badgett Construction, and Sullivan and Cozart Construction spoke in favor of the recommendations.

The second item on the agenda consisted of a review of an administrative regulation dealing with utilization review and medical bill audits (803 KAR 25:190) in the workers' compensation program. The regulation was explained by the Commissioner of the Department of Workers' Claims. The committee raised no objections to the regulation.

The last item discussed was a memorandum from a legislator to the committee concerning the plight of miners who had worked for Southeast Coal. The memorandum invited the committee to join the legislator in requesting the Attorney General to investigate whether any wrongdoing by state officials or others had occurred in the Southeast Coal situation. No action was taken.

In October, the committee discussed the Southeast Coal situation in the context of the revised self-insurance regulations. In addition, the committee hosted a workers' compensation seminar in Lexington October 23, 24, and 25. Many topics were discussed and a report of the 1995 actuarial report of the Special Fund was given. The seminar concluded with a discussion of potential workers' compensation legislative proposals in the 1996 General Assembly. The committee plans to meet in November and December for the purpose of concluding its study and review of the Special Fund.

### **Subcommittee on Employment Standards and Labor Relations**

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

The first meeting of the subcommittee, held in December, was an organizational meeting. The chairman reviewed the subcommittee's jurisdiction and presented a tentative agenda for the remainder of the interim for the members to consider.

The new Secretary of Labor was introduced and he shared his thoughts on labor topics that he felt were important.

The second meeting of the subcommittee was held in May. The first topic presented to the members was a proposal by the Secretary of Labor to establish an Education and Training Branch in the Labor Cabinet.

The next subject discussed was an update on the Public Employees Collective Bargaining Task Force, presented by the Secretary of Labor, the Acting Director of the Division of Employment Standards and Mediation, and the chairman of the Task Force.

The June meeting was devoted to an overview of wage and hour laws, presented by the Secretary of Labor, the Acting Director of the Division of Employment Standards and Mediation, and the Reviewer of Wage and Hour Claims. Topics covered by the overview included federal and state minimum wage, sex discrimination, exemptions to the minimum wage law, subminimum wage, migrant workers, tipped employees, tip pooling, employer tip credit, tax withholding, child labor laws, rest breaks, lunch breaks, prevailing wages, and overtime.

## **Subcommittee on Job Training, Licensing, and Apprenticeship**

The subcommittee held its first meeting in December, 1994. The major topic under consideration was regulation of independent contractors, because the subcommittee had been assigned a study on this issue mandated by HCR 60, of the 1994 Regular Session. Representatives from several state agencies testified concerning their regulatory responsibilities and the problems they've encountered concerning independent contractor issues.

The other topic reviewed was the School to Work federal grant program, administered by the Workforce Development Cabinet. The Cabinet Secretary and a staff assistant described the first-year planning process, in which 22 labor market areas, representing the entire state, participated. Kentucky was one of only six states to receive full implementation funding, estimated to be \$4 million in the initial year and approximately \$20 million over the following four years. The basic concept is to involve students in related school and worksite learning activities which will later lead to employment.

The second subcommittee meeting, held in March, 1995, dealt primarily with the possible transfer of the Department of Employment Services from the Cabinet for Human Resources to the Workforce Development Cabinet. The Secretary of the Workforce Development Cabinet and the Commissioner of Employment Services (CHR) explained why they favored the transfer to Workforce Development. Enhanced cooperation and unified services were mentioned as benefits, while neither speaker anticipated any negative outcomes.

The July subcommittee meeting focused on two programs operated by the Workforce Development Cabinet, One-stop shops and adult education. "One-stop shops" refers to a new system of employment and training sites being developed with federal grant funds to provide a single point of entry for those seeking state and local help in finding employment or in receiving job-related training. To date, one-stop shop sites are operating in Owensboro, the Lexington area, Louisville-Jefferson County, and Somerset. The goal is to have at least one site in each of the state's 22 labor market areas.

The Commissioner of the Department of Adult Education and Literacy described the progress made in addressing the problem of adult illiteracy in the Commonwealth. Adult education has gone beyond just offering GED programs. Thanks to increased funding, the department has begun to assist adults in mastering the basic skills needed for successful employment, in cooperation with local businesses. Several business representatives recounted how the essential workplace skills training developed with the Cabinet had helped them retain employees and improve their job skills.



**REPORT OF THE 1994-95  
INTERIM JOINT COMMITTEE ON  
LICENSING AND OCCUPATIONS**

**Senator David Boswell, Co-Chair  
Representative Denver Butler, Co-Chair**

Rep. Jon Ackerson	Rep. Woody Allen
Rep. John Arnold	Sen. Fred Bradley
Rep. Thomas Burch	Sen. Tom Buford
Rep. Larry Clark	Sen. James Crase
Rep. Robert Damron	Rep. Ernest Fletcher
Rep. J. R. Gray	Rep. Leonard Gray
Sen. Jeff Green	Rep. E. Porter Hatcher, Jr.
Rep. Bill Lile	Rep. Paul Marcotte
Rep. Allen Maricle	Sen. Barry Metcalf
Sen. Denny Nunnelley	Rep. Ruth Ann Palumbo
Sen. Tim Philpot	Rep. Jon David Reinhardt
Sen. Richard "Dick" Roeding	Sen. Larry Saunders
Sen. Dan Seum	

LRC STAFF: Michael Greer, Michael Meeks, Vida Murray, Yair Riback,  
and Wilda Bond

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
GENERAL ASSEMBLY**



**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**SUBCOMMITTEE ON BUSINESS REGULATION**

**Rep. Porter Hatcher, Jr., Chair**

Rep. Woody Allen  
Sen. Tom Buford  
Rep. Tom Burch  
Rep. Larry Clark  
Rep. Robert Damron  
Rep. Leonard Gray  
Rep. Bill Lile

Rep. Paul Marcotte  
Sen. Barry Metcalf  
Sen. Denny Nunnolley  
Rep. Ruth Ann Palumbo  
Sen. Tim Philpot  
Rep. Jon David Reinhardt  
Sen. Larry Saunders

**Senator David Boswell, Ex-Officio**  
**Representative Denver Butler, Ex-Officio**

**SUBCOMMITTEE ON  
OCCUPATIONS & PROFESSIONS**

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Rep. Larry Clark  
Sen. James Crase  
Rep. Robert Damron  
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Rep. Jon David Reinhardt  
Sen. Richard "Dick" Roeding  
Sen. Larry Saunders

**Senator David Boswell, Ex-Officio**  
**Representative Denver Butler, Ex-Officio**

**SUBCOMMITTEE ON CHARITABLE GAMING**

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**Rep. Thomas Burch, Co-Chair**

Rep. Woody Allen

Rep. Jim Callahan

Rep. Robert Damron

Rep. Porter Hatcher, Jr.

Rep. J. R. Gray

Sen. Barry Metcalf

Rep. Jon David Reinhardt

Sen. Richard "Dick" Roeding

Sen. Larry Saunders

**Senator David Boswell, Ex-Officio**

**Representative Denver Butler, Ex-Officio**

## **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 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 and its predecessor, the Interim Joint Committee on Business Organizations and Professions, have met a total of nine times during the 1994-95 interim. The Committee has discussed the following issues:

#### **Charitable Gaming**

Throughout the interim the Committee has received updates on the implementation of the charitable gaming laws from the Division of Charitable Gaming. The reports given addressed the regulations promulgated, the licenses issued, the staff hired, the moneys spent, and the administrative actions taken.

Early in the Interim, the Committee received testimony from the Director of the Division of Charitable Gaming on the Division's efforts to organize and establish a licensing process. At that time, Committee members expressed an interest in closely monitoring implementation of the legislation, and asked the Justice Cabinet to keep it informed on the Division's progress. One of the concerns that surfaced at that meeting was the slow rate with which information concerning House Bill 206 reached the affected organizations.

In response to that concern, the Committee held a teleconference on charitable gaming. Teleconference sites located in five areas of the state - Ashland, Hazard, Bowling Green, Murray, and Louisville - were connected with the meeting room in Frankfort. Information concerning the new law, including a video presentation that outlined the requirements of the law, and a briefing from the Director of the Division of Charitable Gaming, was presented. Attendees were subsequently permitted to ask questions on any matter pertaining to charitable gaming. A similar meeting was held the next month in Southgate, Kentucky, where the Division also reported the creation of a newsletter to disseminate information to those engaged in charitable gaming. A prime issue discussed at that meeting was the definition of "compensation," as it relates to volunteers of charitable

gaming activities. The Division responded that providing refreshments and tipping violated the "no compensation" rule for volunteers and agreed, at the behest of the Committee, to revise its administrative regulations so as to permit a charitable organization to give its volunteer workers refreshments while volunteering at the charitable gaming activity.

Other activities and changes concerning charitable gaming that the Committee considered or was apprised of included: a prefiled bill proposing significant changes in the charitable gaming laws; the re-establishment of the Subcommittee on Charitable Gaming; and the creation of the Division's toll free number for in-state calls. Administrative regulations were relaxed to allow limited charitable gaming at festivals occurring over several days and to lessen some of the recordkeeping requirements, of which many organizations complained. Other topics of concern were whether the Division had reimbursed the state for the startup moneys advanced, and whether the fee imposed on the gross receipts from charitable gaming activity should be reduced, considering the Division's surplus funds. Among the major changes proposed are: eliminating the provisions permitting a sub-organization of a charitable organization to hold a bingo session; allowing charitable organizations to hold more bingo sessions; prohibiting manufacturers and distributors from providing bookkeeping, transportation, advertising, or marketing services to charitable organizations; and imposing a tax on the gross receipts derived from manufacturers and distributors of charitable gaming equipment and supplies. At its final meeting, the Division's Acting Director and General Counsel informed the Committee of a recent court decision in Jefferson County that held unconstitutional the fees imposed on the gross receipt from charitable gaming activity.

### **Home Inspectors**

Another issue considered by the Committee was whether home inspectors should be licensed or certified. Home inspectors are increasingly being used by prospective buyers to detect problems with a home's systems. Home inspections are not required, but they provide a home buyer with an independent judgment on the quality of the home he or she is contracting to buy. The Committee feared that many abuses have occurred or will occur, since home inspectors are not subject to any educational or experiential requirements. Several home inspectors and representatives of their trade associations presented the Committee with reasons why home inspectors should not be regulated. Those reasons cited included: the small incidence of abuse; the existence of consumer protection laws that already provide consumers adequate remedies; and faith that the marketplace would weed out incompetent practitioners. Moreover, they reported that many home inspectors are members of national and state trade associations that provide training. Those testifying were skeptical of state intervention in an industry that was doing a good job regulating itself. Specifically, they noted that the prefiled legislation merely requires the home inspector to disclose qualifications and maintain fair dealings with his or her client. They suggested, if legislation is enacted, it include provisions that require a written home inspection report that meets industry standards and that the written report be provided to the client. It was also pointed out that Lexington-Fayette Urban-County

Government recently enacted an ordinance requiring home inspectors practicing within that jurisdiction to be licensed.

### **Licensing of Fire Alarm Contractors**

The Committee heard testimony from fire alarm installation contractors who wished to be licensed or certified. The contractors pointed out that much of the industry, such as sprinkler systems, chemical suppressing systems, and kitchen hood systems, are already regulated. The contractors noted that the licensing of fire alarm systems would be very helpful, and would benefit the public by interrelating all of these systems. Their recommendations would only affect commercial installations. States that already license fire alarm contractors include: Tennessee, West Virginia, Texas, Florida, Alaska, Montana, and Maryland. Representatives of the Department of Housing, Buildings, and Construction testified that they thought the suggested legislation was unnecessary.

### **North American Free Trade Agreement**

The Acting Director of the International Trade Office of the Kentucky Cabinet for Economic Development testified on the North America Free Trade Agreement (NAFTA). The trade agreement addresses the movement of licensable service providers between the United States, Canada, and Mexico. Under this Agreement, the state must compile and submit to the United States Trade Representatives Office a list of all qualitative restrictions placed on service providers. The legal counsel to the state's trade committee reported that the state's licensing boards and agencies have been asked to reserve or "grandfather" any provisions inconsistent with NAFTA that it wanted to keep. Once a provision is reserved it cannot be made stricter; however, it can be relaxed. He noted that some restrictions, such as the number of race tracks in Kentucky, were attached to the treaty for informational purposes, and that NAFTA officials do not need to accept what is submitted. It was also stressed that NAFTA cannot require the State of Kentucky to make changes; however, the federal government is permitted to.

### **Racing Issues**

At the Committee's fifth meeting, the Chief Administrator Officer of the Racing Commission reported that 1993 was the eighth straight record year for pari-mutuel handle in the Commonwealth. He noted that \$501 million was bet in Kentucky in that year. In 1994, \$507 million was bet in Kentucky, not including an additional \$93 million bet from out-of-state wholecard simulcasting. This, he noted, represented a 100 percent increase in pari-mutuel handle since 1987. He also reported that the merger of the two commissions had been successful and had resulted in a 32 percent cut in the number of part-time employees and a 32 percent cut in General Fund support.

At a subsequent meeting, the Committee viewed a slide presentation on the impact racing legislation has had on Kentucky tracks generally, and Turfway Park particularly. An official at the racetrack reported that there was a significant increase in wagers at the

race tracks, and that much of this increase can be attributed to the legalization of wholecard simulcasting in 1994. He also reported that the increases noted accounted for increased employment and capital improvements in the area.

### **Alcoholic Beverages**

Mail order sales of alcoholic beverages were discussed at the Committee's final meeting. A representative of the Kentucky Wholesalers Liquor Dealers Association reported that solicitations of alcoholic beverages through advertisements and catalogues are problematic. Specifically, he noted that such sales do not generate tax revenues, are easily accessible to minors, and can be shipped into dry territories within the Commonwealth. He also pointed out that direct shipments result in lost sales to Kentucky wholesalers and retailers, who pay taxes and employ Kentucky residents. Reportedly, more than 2000 cases of alcoholic beverages are being shipped directly into Kentucky from out-of-state sources each month. The Kentucky Wholesalers Liquor Dealers Association recommends that Kentucky law be amended to specifically prohibit direct shipments of alcoholic beverages, and to impose strict penalties for violations. Moreover, they recommend that an in-state alcohol transport license be required of all companies involved in the shipment of alcohol beverages, such as Federal Express and United Parcel Service, and that the shippers be responsible for identifying the recipient, insuring that state taxes be paid, and prohibiting deliveries in dry territories. Other states have addressed this problem in various ways. Tennessee and Texas have enacted laws making it a felony for an out-of-state seller to ship alcohol into their state, while Connecticut has placed the burden on the shipper. A representative of the Kentucky Beer Wholesalers Association testified that shipments into the state by out-of-state retailers or distributors present a problem for beer wholesalers. The General Counsel of the Alcoholic Beverage Control Commission expressed concern that the out-of-state sellers are operating outside the Department's control. He indicated that many of the products could be purchased through computers, and worried that such easy access would lead to the proliferation of these practices.

The Committee took no action on the prefiled bills referred to it.

### **Subcommittee on Business Regulation**

The Subcommittee on Business Regulation of the Interim Joint Committee on Licensing and Occupations has held two public hearings. The first hearing involved a study of 96 BR 304, relating to regulation of malt beverage containers. The second hearing involved a continuing study of 96 BR 266, relating to the regulation of home inspectors in the Commonwealth of Kentucky.

Over the past several months, the subcommittee has worked diligently on the proposals referred to it from the Interim Joint Committee on Occupations and Professions. Individuals testifying before the subcommittee included representatives of the malt

beverage industry and representatives of the home inspection industry, along with the sponsors of the various pieces of legislation.

The Subcommittee on Business Regulation of the Interim Joint Committee on Licensing and Occupations has made no recommendations on the bills referred to it.

### **Subcommittee on Charitable Gaming**

The Subcommittee on Charitable Gaming of the Interim Joint Committee on Licensing and Occupations has held six public hearings on the issue of charitable gaming in Kentucky. Specifically, the subcommittee received correspondence and testimony from numerous individuals and organizations on the Kentucky Charitable Gaming Act (KRS 238.500 to 238.995); 96 BR 125, an act related to charitable gaming; three different proposed committee substitutes for 96 BR 125; and numerous amendments to those proposed committee substitutes.

Over the past six months, the subcommittee has worked diligently and discussed several "emergency" and "permanent" administrative regulations promulgated by the Division of Charitable Gaming; received numerous reports and updates from the Division on the status of charitable gaming in Kentucky; and viewed a video presentation taken from a national television network documentary on charitable gaming in the United States.

Individuals testifying before the subcommittee included: representatives of the Kentucky Division of Charitable Gaming, the Kentucky Charitable Gaming Advisory Board, the Kentucky Charitable Gaming Association, the Kentucky Catholic Conference, the many individual manufacturers and distributors of charitable gaming equipment and supplies, the various charitable gaming facilities, the individual players, and the general public-at-large.

The Subcommittee on Charitable Gaming of the Interim Joint Committee on Licensing and Occupations has approved a finalized version of a proposed committee substitute for 96 BR 125, and recommended it to the full committee for consideration.

**REPORT OF THE 1994-95  
INTERIM JOINT COMMITTEE ON  
LOCAL GOVERNMENT**

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

Rep. Adrian Arnold	Rep. Joni Jenkins
Sen. Walter Baker	Sen. Nick Kafoglis
Rep. Sheldon Baugh	Sen. David Karem
Rep. Kaye Bondurant	Sen. Bob Leeper
Rep. Lawrence Brandstetter	Sen. Joe Meyer
Rep. Jeff Buis	Rep. Ray Mullinix
Rep. Tom Burch	Rep. Anne Northup
Rep. Dwight Butler	Rep. Steve Nunn
Rep. Jim Callahan	Sen. John David Preston
Rep. Bob DeWeese	Rep. Tom Riner
Rep. Mark Farrow	Sen. Albert Robinson
Sen. Kelsey Friend	Sen. Eck Rose
Rep. Walter Gee	Rep. William Scott
Rep. Drew Graham	Rep. Arnold Simpson
Rep. J. R. Gray	Rep. Billy Ray Smith
Rep. Elbert Hampton	Sen. Elizabeth Tori
Sen. Ernest Harris	Rep. Jim Wayne

LRC STAFF: Jamie Jo Franklin, John Schaaf, Donna G. Weaver, Mark Mitchell, Betsy Barton and Cheryl J. Walters

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**TASK FORCE ON CITIES**

**Representative Arnold Simpson, Chair**

Rep. Adrian Arnold  
Rep. Kaye Bondurant  
Rep. Lawrence Brandstetter  
Rep. Jeff Buis  
Rep. Tom Burch  
Rep. Jim Callahan

Rep. Bob DeWeese  
Rep. Joni Jenkins  
Sen. David Karem  
Rep. Anne Northup  
Sen. Albert Robinson  
Rep. Jim Wayne

**Senator Tim Shaughnessy, Ex-Officio**  
**Representative 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**

During the 1995 Organizational Session of the General Assembly, the Senate State and Local Government Committee, the House Cities Committee, and the House Counties and Special Districts Committee were joined to form the Interim Joint Committee on Local Government.

Prior to the combination of these committees, the Interim Joint Committee on Counties and Local Government met twice. During its November 1994 meeting, the committee discussed the funding of county jails. Many counties, particularly small ones, reported difficulty in meeting their jail budgets. It was reported to the committee that in some counties, the cost of running a jail or transporting prisoners is so high that money is not available for other necessary county services.

At its December 1994 meeting, the committee discussed the requirements for performance bonds for county officials. The Kentucky Constitution and statutes require most elected county officers to post bond before taking office. The Kentucky Supreme Court recently required a county judge/executive and a county clerk to vacate their offices because of failure to post bond properly. The committee discussed possible changes in the law to make it easier to comply and to make the penalties less severe. The committee also heard testimony concerning the collapse of the investment program in Orange County, California. The Kentucky Association of Counties reported that Kentucky laws would not

allow a similar situation to occur in Kentucky, and it described training courses that are being offered to instruct local officials in how to make sound investments.

It should be noted that during the 1995 Second Extraordinary Session of the General Assembly, the issue of public performance bonds for local officials was addressed in SB 6. This bill eliminated the possibility of removing a local official from office solely because of his or her posting of a performance bond in an untimely manner. It gave all office holders a grace period during which they could come into compliance with the performance bond statutes without penalty. The bill also increased financial penalties for those persons who did not come into compliance within the specified time period.

After the formation of the Interim Joint Committee on Local Government in January of this year, the full committee has met six times. At its first meeting, the committee discussed the implementation of the 1994 Local Government Ethics Code, which was mandated for implementation by January 1995. They heard testimony from the Department of Local Government (DLG) about their efforts to inform and assist local governments with implementation. They also reported on the number of local governments which had to date met the deadline for local adoption and state submission of their ethics ordinances. It was noted that of all city and county governments, only 9 cities had not complied with the deadline.

In addition to ethics, the Committee also discussed the implementation of the recently enacted constitutional amendment relating to local governments. The Committee heard from various interest groups and state officials as to what legislative action might be needed for the implementation of the amendment. All of the speakers were in agreement that the only action needed during the 1996 Session would probably be the clarification of statutes relating to bonded indebtedness for local governments. And finally, the Committee heard from representatives of DLG, the Kentucky Association of Counties (KACo) and the Kentucky League of Cities (KLC) about their organizational structures and issues which they would like for the committee to research during the remainder of the interim. These included tax reform for local governments, improvement of the Interlocal Cooperation Act, crime prevention, job creation, state-wide planning, and the elevation of the Department of Local Government to cabinet level status.

At its second meeting, the committee began their review of special purpose local governments (special districts) in Kentucky. At each subsequent meeting of the committee throughout the remainder of the interim, the committee took testimony from representatives of the various types of special districts and reviewed research information compiled by the LRC staff on this topic.

In addition to the creation of a state-wide inventory of special districts which identified them by type, name and location, the committee discerned two main issues which seemed to be the overriding issues when dealing with special districts.

They were identified as:

1. The lack of accountability due to the inability of state and local governments to enforce current financial reporting requirements. Current statutory language requires special districts to file annual budgets, organizational information, and other financial information with designated state and local agencies. But, upon investigation, it was discovered by DLG and LRC staff that many special districts do not comply with the reporting and disclosure requirements found in the statutes. It seems the only available method by which state officials can force compliance is the withholding of state funds, but only a few types of special districts receive any state funds at all. So any incentives to comply with the financial reporting statutes were found to be at best very weak; and
2. The lack of ethical conduct standards for members of the various types of districts. The Committee discussed this issue in depth because many people had assumed that special districts would have to comply with the ethics code requirements which had been recently enacted relating to counties and cities. But a recent attorney general's opinion has stated that special districts are exempt from such provisions. This opinion of the attorney general set off a wave of outrage across the state, which resulted in a series of newspaper articles as well as a call by local elected officials for greater state control of these non-elected entities.

In response to these issues, the Committee had staff draft proposals addressing ethics and financial accountability. At this time, neither the Committee nor any individual member has pre-filed either of these proposals.

Other topics and activities which the Committee undertook were as follows:

1. The annual review of the Kentucky Small Cities Program of the Community Development Block Grant;
2. The review of proposed Kentucky Administrative Regulations in the areas of the state plumbing code and the Kentucky building code;
3. Review of the annual report on enterprise zones submitted by the Kentucky Revenue Cabinet;
4. Discussion of the possible need for changes in the uniform financial information reporting statutes that relate to local governments;
5. The implementation of 94 HB 365, relating to volunteer firefighters. The Committee reviewed the status of the new program which provides funding assistance to volunteer fire departments for equipment purchases and provides funding for Hepatitis B inoculations for all firefighters;

6. Participation of the Committee at the Governor's Local Issues Conference in Northern Kentucky;
7. Participation in the US. Department of Commerce's national 2-day teleconference on "Sustainable Communities"; and
8. Approval and pre-filing of bill proposals for the 1996 General Assembly as follows:
  - A. 96 RS BR 8 - An Act relating to the transportation of prisoners;
  - B. 96 RS BR 184 - An Act relating to cellular radio communications facilities;
  - C. 96 RS BR 270 - An Act relating to county treasurers;
  - D. 96 RS BR 321 - An Act relating to jails; and
  - E. 96 RS BR 363 - An Act relating to joint operation of water sources.

### **Task Force on Cities**

The Task Force on Cities held two meetings during the interim period. At its first meeting, in Frankfort, the task force reviewed 96 RS BR 39 - An Act relating to urban-county governments. This bill focused on the ability of an urban-county to amend its charter in regards to their ability to levy occupational license fees. The task force did not recommend this bill to the full committee. The task force also discussed the need to amend the statutes in the area of bonded indebtedness, given the recent adoption of the omnibus local government constitutional amendment. After a discussion with bond experts on this topic, the task force asked these same individuals to bring specific recommendations on this topic to the full committee during the 1996 Session.

For its last meeting, the task force traveled to Paducah to meet with the legislative committee of the Kentucky League of Cities (KLC) during their annual meeting. At this time, representatives of KLC presented the legislative platforms they intend to pursue during the 1996 legislative session. The topics included in their proposals included:

1. Maintenance of the authority to levy municipal insurance premium taxes at their current levels;
2. The ability to enact juvenile curfew ordinances;
3. The ability to pursue appeals from the Alcoholic Beverage Control Board in a local circuit court, rather than having to take all such appeals to the Franklin Circuit Court; and
4. The authority to implement local code enforcement boards, which have the ability to enforce local ordinances.

In addition to their primary proposals, KLC also issued policy statements on the following topics to the task force.

1. Planning and zoning;
2. Crime;
3. Utility extension;
4. Charter county government statutes;
5. Unfunded mandates;
6. Bank shares tax;
7. Local government tax reform;
8. Establishment of a local government data base;
9. Application of state building codes to single family dwellings; and
10. Support of Geographic Information Systems funding.

A copy of these proposals, along with the task force's report, was forwarded to the full committee.

**REPORT OF THE 1994-95  
INTERIM JOINT COMMITTEE ON  
STATE GOVERNMENT**

**Senator Tim Shaughnessy, Co-Chair  
Representative Ramsey Morris, Co-Chair**

Rep. Woody Allen	Sen. Bob Leeper
Rep. Adrian Arnold	Rep. Gross Lindsay
Sen. Walter Baker	Rep. Paul Marcotte
Rep. Eddie Ballard	Rep. Allen Maricle
Rep. Joe Barrows	Rep. Mary Lou Marzian
Rep. Jim Bruce	Sen. Joe Meyer
Rep. Jim Callahan	Rep. Ray Mullinix
Rep. Larry Clark	Rep. Lonnie Napier
Rep. Perry Clark	Sen. John David Preston
Rep. Joe Clarke	Rep. Kenny Rapier
Rep. Freed Curd	Rep. Jon David Reinhardt
Rep. Danny Ford	Sen. Albert Robinson
Sen. Kelsey Friend	Sen. John "Eck" Rose
Rep. Charles Geveden	Rep. John Will Stacy
Rep. Leonard Gray	Rep. Tommy Todd
Sen. Ernie Harris	Sen. Elizabeth Tori
Rep. Tom Jensen	Rep. Jim Wayne
Sen. Nick Kafoglis	Rep. Pete Worthington
Sen. David Karem	Rep. James Zimmerman
Rep. Jimmie Lee	

LRC STAFF: Joyce Honaker, Joyce Crofts, Barri Christian, Clint Newman, Rob Williams, Stewart Willis, Jeanie Smith, and Peggy Sciantarelli

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**SUBCOMMITTEE ON GENERAL GOVERNMENT**

**Rep. Jim Bruce, Chair**

Rep. Eddie Ballard	Rep. Paul Marcotte
Rep. Charles Geveden	Rep. Ray Mullinix
Sen. Ernie Harris	Sen. John David Preston
Sen. David Karem	Rep. John Will Stacy
Rep. Jimmie Lee	Rep. Jim Zimmerman

**Senator Tim Shaughnessy, Ex-Officio**  
**Representative Ramsey Morris, Ex-Officio**

**SUBCOMMITTEE ON PERSONNEL**

**Senator Kelsey Friend, Chair**

**Rep. Joe Barrows, Vice-chair**

Rep. Jim Callahan	Rep. Jon David Reinhardt
Rep. Larry Clark	Rep. Tommy Todd
Sen. Bob Leeper	Sen. Elizabeth Tori
Rep. Lonnie Napier	Rep. Jim Wayne
Rep. Kenny Rapier	Rep. Pete Worthington

**Senator Tim Shaughnessy, Ex-Officio**  
**Representative Ramsey Morris, Ex-Officio**

**TASK FORCE ON ELECTIONS & CONSTITUTIONAL AMENDMENTS**

**Rep. Adrian Arnold, Chair**

Rep. Woody Allen	Rep. Tom Jensen
Sen. Walter Baker	Rep. Gross Lindsay
Rep. Perry Clark	Rep. Allen Maricle
Rep. Joe Clarke	Rep. Mary Lou Marzian
Rep. Freed Curd	Sen. Joe Meyer
Rep. Danny Ford	Sen. Albert Robinson
Rep. Leonard Gray	

**Senator Tim Shaughnessy, Ex-Officio**  
**Representative Ramsey Morris, Ex-Officio**

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

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

### **COMMITTEE ACTIVITY**

During the 1994-95 Interim, the Interim Joint Committee on State Government held 11 meetings prior to November 1, 1995.

The Committee was organized into three subcommittees, General Government, Personnel, and the Task Force on Elections and Constitutional Amendments. Following is a summary of activity of the full committee and each subcommittee. (The Subcommittee on Personnel did not meet.)

Major topics before the Interim Joint Committee on State Government included legislative redistricting; implementation of HB 334, relating to uniform administrative hearing procedures (named the Albert Jones Act of 1994); privatization; and public access for persons with disabilities

In performing its statutory legislative oversight responsibilities, the Committee reviewed 71 administrative regulations under the review process established in KRS Chapter 13A. All of the regulations were approved; 11 were amended by the Committee.

Pursuant to KRS 12.028, the Committee held hearings on three executive reorganization orders: 94-731, creating the Office of State Programs and the Bluegrass Station Division in the Department of Military Affairs; APA-1-94, reorganizing the Office of the State Auditor; and 94-1235, relating to the Kentucky Public Employees Deferred

Compensation System (now Kentucky Public Employees Deferred Compensation Authority).

Prior to the convening of a September, 1994, special session on confirmation of gubernatorial appointments, the Committee conducted a pre-confirmation hearing on the appointments of Carolyn S. Bratt, Victor B. Maddox and William T. Warner to the Registry of Election Finance.

In September 1994, a committee hearing on access to public services by persons with disabilities was held in conjunction with the first annual "Speak for Yourself" self-advocacy conference, hosted by the Kentucky Disabilities Coalition, the Department of Vocational Rehabilitation, and the Children and Adolescent Service System Program (Department for Mental Health). Many of the conference participants attended the hearing, and several members of the disability community addressed the Committee.

At the March 1995 meeting, the Secretary of the Finance and Administration Cabinet presented a status report on implementation of the recommendations of the Governor's Commission on Quality and Efficiency. This was in response to HCR 8 (1995 S2), which directed the Committee to consider legislation which would decrease the cost and increase the efficiency of state government operations.

The Committee conducted an in-depth review of the Auditor of Public Accounts' report on Kentucky's privatization of minimum security correctional facilities and ICF/MR (Intermediate Care Facilities/Mental Retardation) institutions. The audit was performed in response to a resolution adopted by the Committee in December, 1993, which requested the Auditor to evaluate the state's experience in contracting with private vendors for operation or construction of such facilities, and to compare cost and quality of care provided by privately-operated and state-operated facilities. The Committee also reviewed state audits of the Kentucky Lottery Corporation; Gtech Gaming and Support Systems; Kentucky Retirement Systems' investment function; selected training contracts for the Workforce Development Cabinet; the Finance and Administration Cabinet; the Revenue Cabinet; the Personnel Department's handling of Kentucky Kare receipts and deposits under COBRA; state greenhouse operations; and the Federal Death Penalty Resource Center Grant (Department of Public Advocacy).

Prior to the August 1995 extraordinary session on redistricting, members of the Task Force for Public Redistricting presented their views to the Committee regarding the drawing of legislative district lines. At a later meeting, the Committee was briefed on redistricting law by Louisville attorney Oliver Barber.

The Committee assigned to the General Government Subcommittee the responsibility to conduct hearings on requests for exemption from 1994 HB 334 and to report its recommendations to the full Committee. The hearings were held last spring. In May, the Committee authorized the Subcommittee to submit its final recommendations for drafting of appropriate legislation.

At the final meeting in September, the Legislative Ethics Commission and the Executive Branch Ethics Commission presented their recommendations for statutory revision. Other interim committee activity included a briefing on the Program Review and Investigation Committee's evaluation of Kentucky's state park system, and a report by the Kentucky Lottery Corporation concerning its efforts to collect outstanding accounts receivable

### **Subcommittee on General Government**

The Subcommittee on General Government held five meetings during the 1994-95 interim for the purpose of hearing petitions from state agencies requesting exemptions from the uniform administrative hearing procedures established by KRS Chapter 13B. The Subcommittee heard from 26 agencies requesting exemptions for 118 types of hearings, or approximately 25% of all hearing procedures identified. It recommended granting a full, limited, or conditional exemption for 80 procedures and denying 13 requests. Petitions for nineteen hearing procedures were withdrawn by agencies either prior to or during the hearings. The Subcommittee took no action on six exemption requests, after determining that the six procedures did not fall within the purview of KRS Chapter 13B. In May, the Subcommittee's final report was presented to the full Interim Joint Committee on State Government.

### **Task Force on Elections & Constitutional Amendments**

During the 1994-95 Interim, the Task Force on Elections and Constitutional Amendments held four meetings prior to November 1, 1995.

At its first meeting, in March 1995, the Task Force was briefed on the requirements of the Americans with Disabilities Act as they pertain to providing accessible polling places. The Task Force learned that the state's polling places must meet the "program accessibility" standard, which does not require every polling place to be fully accessible to persons with disabilities, so long as a reasonable alternative is available to allow them to vote. This requirement also includes providing voting material in a format easily readable to a voter who is sight-impaired. After the discussion regarding accessibility requirements, the Task Force witnessed a demonstration of a prototype voting apparatus which has raised ballot lettering and Braille lettering, which are more easily used by persons with visual impairments.

At its second meeting, in June 1995, the Task Force was briefed on issues that have surfaced during the implementation of the public financing law for slates of candidates for Governor and Lieutenant Governor, the implementation of the Motor-Voter registration law, and updates on lawsuits regarding campaign finance and conduct of elections issues. Representatives of the Registry of Election Finance and the State Board of Elections noted that most of the issues raised during the discussion would need

to be addressed during the 1996 Regular Session and that they would make specific legislative proposals at a later meeting.

At its third meeting, in August 1995, the Task Force received legislative recommendations for the 1996 Regular Session from the Registry of Election Finance, the State Board of Elections, the Secretary of State's office, the Kentucky County Clerks' Association, the Jefferson County Board of Elections, and the Jefferson County Voter Assistance Task Force. Two work groups of Task Force members were appointed to meet with the agencies to determine upon which recommendations a consensus could be reached. The two work groups, one discussing campaign finance issues and the other addressing conduct of elections issues, met during September 1995.

At its fourth meeting, in September 1995, the Task Force received and approved with minor modifications the reports of the campaign finance and conduct of elections work groups. The Task Force then asked that bill drafts for the 1996 Regular Session be prepared to address the work groups' recommendations upon which there was Task Force agreement. Nine bill drafts were prepared and distributed to Task Force members during October 1995. As neither the Task Force nor the full committee met following the preparation of the bill drafts to consider and possibly prefile them, Task Force members were informed that they could individually sponsor them if they desired. The prepared bill drafts are:

- 96 RS BR 871, which makes omnibus changes to the laws regarding the conduct of elections;
- 96 RS BR 872, which limits slates of candidates for Governor and Lieutenant Governor to accepting not more than \$600,000 in individual contributions, which may be matched by state funds;
- 96 RS BR 873, which dovetails the campaign finance reporting requirement for slates of candidates with the cutoff of fundraising;
- 96 RS BR 874, which requires that campaign contributions must be deposited in the campaign account not later than five days after their receipt;
- 96 RS BR 875, which permits the Registry of Election Finance to conduct random audits of political committees;
- 96 RS BR 876, which clarifies that state and county executive committees of a political party may each contribute up to \$500 to a slate of candidates;
- 96 RS BR 877, which limits bundling of in-kind contributions to \$500 per election;
- 96 RS BR 878, which permits exploratory activity by potential candidates for Governor and Lieutenant Governor; and
- 96 RS BR 879, which eliminates the slating requirement for candidates for Governor and Lieutenant Governor in the primary but retains it for the regular election.

The Interim Joint Committee on State Government also referred four prefiled bills to the Task Force for its consideration, but the Task Force neither discussed nor acted on them during the interim.



**REPORT OF THE 1994-95  
INTERIM JOINT COMMITTEE ON  
TRANSPORTATION**

**Sen. Kim L. Nelson, Co-Chair**

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

Sen. Walter Blevins	Sen. David Boswell
Sen. James Crase	Sen. Dan Kelly
Sen. Barry Metcalf	Sen. Virgil Moore
Sen. Denny Nunnolley	Sen. Albert Robinson
Sen. John "Eck" Rose	Sen. Dan "Malano" Seum
Rep. Ray H. Altman	Rep. Denver Butler
Rep. Barbara W. Colter	Rep. Freed Curd
Rep. Ron Cyrus	Rep. Rick Fox
Rep. Kelsey E. Friend, Jr.	Rep. Elbert R. Hampton
Rep. Kathy Hogancamp	Rep. Joni L. Jenkins
Rep. Jimmie Lee	Rep. Jim Maggard
Rep. Paul H. Marcotte	Rep. Paul Mason
Rep. Fred Nesler	Rep. Donnie Newsome
Rep. Clarence D. Noland	Rep. Richard A. Sanders
Rep. Charles L. Siler	Rep. John Will Stacy
	Rep. Pete Worthington

LRC STAFF: Kathy A. Campbell, Jeff Kell, and Adell Kemper

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



**SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP**

**SUBCOMMITTEE OF HIGHWAYS AND TRAFFIC SAFETY**

**Sen. David Boswell, Chair**

Sen. James Crase	Sen. Albert Robinson
Rep. Hubert Collins	Rep. Barbara Colter
Rep. Freed Curd	Rep. Rick Fox
Rep. Kelsey Friend	Rep. Elbert Hampton
Rep. Paul Marcotte	

**SUBCOMMITTEE ON VEHICLE REGULATION AND  
COMMERCIAL TRANSPORTATION**

**Rep. Jimmie Lee, Chair**

Sen. Walter Blevins	Sen. Dan Kelly
Sen. Barry Metcalf	Sen. Kim L. Nelson
Sen. Denny Nunnolley	Sen. Dan Seum
Rep. Ron Cyrus	Rep. Kathy Hogancamp
Rep. Joni Jenkins	Rep. Jim Maggard
Rep. Paul Mason	Rep. Clarence Noland

**SUBCOMMITTEE ON OVERSIGHT  
OF HIGHWAY CONSTRUCTION**

**Rep. John Will Stacy, Chair**

Sen. Walter Blevins	Sen. Virgil Moore
Sen. Kim L. Nelson	Sen. Denny Nunnolley
Sen. John "Eck" Rose	Rep. Ray Altman
Rep. Denver Butler	Rep. Fred Nesler
Rep. Donnie Newsome	Rep. Richard Sanders
Rep. Charles Siler	Rep. Pete Worthington

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

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

### **COMMITTEE ACTIVITY**

During the 1994-95 Interim, the Interim Joint Committee on Transportation held nineteen meetings prior to November 1, 1995. The Legislative Research Commission approved a request by the Committee and its Subcommittees to meet in November 1995 to consider highway construction project overruns and legislative proposals for the 1996 session.

The Committee was organized into three Subcommittees: Vehicle Regulation and Commercial Transportation, Highways and Traffic Safety, and Oversight of Highway Construction. Following is a summary of the activities of the full Committee and each Subcommittee.

Major topics before the Interim Joint Committee on Transportation were Kentucky's membership in the International Fuel Tax Agreement; Kentucky's rural airport program and rural airport needs; the National Driver's License Register reporting requirements; property tax and usage tax assessments on motor vehicles; federal guidelines for wetland mitigation and monitoring on highway projects; graduated driver's licenses for persons ages 16-21; Kentucky's twenty-year long range transportation plan; railroad safety and railroad/utility crossing rates; the rural aid secondary road program appropriations during the third extraordinary session, 1995; and the Six-Year Highway Construction Plan.

In performing its statutory legislative oversight responsibilities, the Committee reviewed twenty administrative regulations under the review process established in KRS Chapter 13A (16 were approved; 0 were found deficient; and no action was taken on 4 of the regulations).

Pursuant to KRS 7.330, the Committee held a hearing on Executive Order 94-663 that reorganized the Transportation Cabinet. The Committee also reviewed Audits of the Transportation Cabinet made as part of the Statewide Single Audit of the commonwealth for fiscal years ending June 30, 1992 and June 30, 1993, as required by KRS 7.330. Pursuant to KRS 7.330, the Committee reviewed the Auditor's Report on the Sale of

Surplus Property by the Transportation Cabinet to Waste Management of Kentucky. The Committee conducted a two-day trip to Paducah in November 1994 and a two-day trip to Paintsville in June 1995 to visit highway projects that had been delayed, due to wetlands involvement and to assess highway needs in Eastern Kentucky.

### **Subcommittee on Vehicle Regulation and Commercial Transportation**

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

During the 1994-95 Legislative Interim period the Subcommittee met five times prior to November 1, 1995. The Legislative Research Commission approved a November meeting for the Subcommittee to discuss proposed improvements to the motor vehicle title transfer process.

The Subcommittee discussed the following subjects during the interim: deregulation of the motor carrier industry, salvage title law status, state motor pool management, the canine Drug Interdiction Unit, and the motor vehicle titling process.

Federal law now stipulates that states may not enforce laws limiting a motor carrier's ability to operate with regard to routes, rates, and service. This action prompted the passage of Senate Bill 33 in the 1994 General Assembly to deregulate the motor carrier industry, except to continue to regulate the insurance coverage and safety of carriers.

The salvage title law of 1994, whereby titles are "branded" if the vehicle has been substantially rebuilt, has had a minimal impact on insurance companies, automobile dealers and the Division of Motor Vehicle Licensing; however, it has had a positive impact on consumers. Tax value on branded vehicles is currently assessed at the same rate as a used vehicle that has not been rebuilt. The fairness of this policy has been questioned and may result in legislation for the 1996 General Assembly.

Recent executive action to consolidate the state motor pool from a management and maintenance viewpoint was reviewed by the Subcommittee. The Division of Fleet Management within the Transportation Cabinet has been given by executive order some responsibilities that used to belong to the Finance and Administrative Cabinet. The 1996 General Assembly may have to review an administration bill to ratify this new state motor pool management program.

The Drug Interdiction Unit of the Transportation Cabinet uses dogs to help locate drugs in motor carrier vehicles. This is a new program that largely supports itself with funding from the sale of confiscated property. Cabinet officials testified that the Drug

Interdiction Unit has been a great success and gained national recognition. The Unit is also helping to train canines and officers for local government agencies.

The processing of motor vehicle titles is taking a longer time than set by statute. There are many reasons for this, as the Subcommittee found out in its tour of the Title Branch in the Department of Vehicle Regulation. Suggestions for streamlining the process that will require both executive and legislative changes during the 1996 Regular Session of the General Assembly have been made.

### **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 1994-95 Legislative Interim period, the Subcommittee met six times before November 1, 1995, and reviewed the following topics: the new seat belt law and its effect on insurance rates, highway pavement marking systems, and safety issues concerning the operation of personal watercraft (jetskis).

The Department of Insurance provided testimony to the Subcommittee concerning their efforts to obtain information and statistics from the insurance industry on the effect of Kentucky's new seat belt law on traffic accidents and insurance premiums. The Department encountered difficulty in gathering meaningful data, especially of a comparative nature, whereby the impact of the seat belt law can be measured. The main conclusion drawn by the Department of Insurance is that seat belts save lives, but not necessarily money citing that a death benefit is often cheaper than hospital bills for complicated injuries.

The Division of Traffic of the Transportation Cabinet is in the process of eliminating solvent based paint for highway markings, due to federal regulations reducing the allowable volatile organic compound content used in highway paint. Also, funding cutbacks are reducing the number of highway miles that can be equipped for reflectorized lighting units that are embedded in the center of the roadways.

The explosion in popularity of personal watercraft has contributed to a number of boating related deaths. Inexperienced or juvenile operators often loses control of these high speed vehicles. A number of legislators have expressed an interest in sponsoring legislation to restrict the operation of these craft, and the Division of Water Patrol, within the Fish and Wildlife Department, is gathering information from surrounding states to see how our neighbors, who share our waterways, are regulating this issue.

## **Subcommittee on Oversight of Highway Construction**

During the 1994-95 Interim, The Subcommittee on Oversight of Highway Construction held nine meetings prior to November 1, 1995.

The Subcommittee reviewed implementation of the 1994 Six-Year Road Plan during the interim and reviewed Cabinet changes in the Six-Year Plan for the 1996 Session.

Between May 23, 1994 and October 3, 1995, one hundred sixty-five projects, totaling \$73,264,209, were presented to the Subcommittee by the Cabinet. The one hundred sixty-five projects had twenty-three design phase overruns, forty-five right-of-way phase overruns, forty-two utility phase overruns, and fifty-five construction phase overruns.

Design phase overruns totaled	\$ 2,748,495
Right of Way phase overruns totaled	\$13,984,500
Utility phase overruns totaled	\$11,649,568
Construction phase overruns totaled	\$44,881,646

Of the one hundred sixty-five project cost overruns, the Subcommittee recommended one hundred sixty-four to the full Committee for approval.



**REPORT OF THE 1994-95  
ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

**Representative Jesse Crenshaw, Chair**

Sen. Fred Bradley  
Sen. Nick Kafoglis  
Sen. John David Preston  
Rep. Woody Allen  
Rep. James Bruce  
Rep. Jimmy Lee

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 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 seventy 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, issues raised concerning existing administrative regulations, and issues relating to the notice of intent procedure established by House Bill 322, enacted during the 1994 Regular Session of the General Assembly. 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, 1994 through October, 1995, the Administrative Regulation Review Subcommittee reviewed 983 administrative regulations, and determined that 18 did not comply with statutory authority.

In August 1995 the Legislative Research Commission published the 1995 *Administrative Regulations Service of Kentucky*, which contains administrative regulations in effect as of August 1, 1995.

The Subcommittee prepared a revised edition of Kentucky Administrative Regulations (Informational Bulletin 118), the manual for administrative regulatory procedure.

The Subcommittee is considering suggested amendments to KRS Chapter 13A relating to changes in terminology, procedure, review of administrative regulations by legislative subcommittees, and various issues raised by the enactment of the notice of intent procedure established by House Bill 322.

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

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

**REPORT OF THE 1994-95  
CAPITAL PLANNING ADVISORY BOARD**

**Representative Fred Nesler, Chair  
Mr. Bill Hintze, Vice-Chair**

Mr. Clark Beauchamp	Sen. Virgil Moore
Rep. Lawrence Brandstetter	Sen. Denny Nunnelley
Ms. Susan S. Clary	Mr. Laurel True
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LRC STAFF: Pat Ingram, Ed Sergent, Jack Affeldt, Miriam Fordham, Linda Hughes,  
and Esther Robison.

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **CAPITAL PLANNING ADVISORY BOARD**

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

### **BOARD ACTIVITY**

During the 1994-95 Interim, the Capital Planning Advisory Board held seven meetings. At its July 1994 meeting, the Board reviewed actions of the 1994 General Assembly relative to recommendations contained in the Board's 1992-98 statewide capital improvements plan and discussed the direction for the 1994-2000 planning process.

Guidelines for state agencies and higher education institutions to use in submitting their 1994-2000 capital improvements plans were approved at the October 1994 meeting. The guidelines stipulated that the agency plans should include a status report of projects authorized for the 1994-96 biennium and planning information on capital construction projects, equipment purchases, and new or expanded leases of real property proposed for the upcoming two biennia - 1996-98 and 1998-2000. Significant changes from the guidelines used for the previous plan included: 1) raising the threshold for capital construction projects and computer and communications systems from \$200,000 to \$400,000, based on House Bill 166, as enacted by the 1994 General Assembly; 2) providing greater consistency between the forms used in the planning process and those used in the budget process, primarily through the inclusion of additional data elements, as requested by the agencies; and 3) increasing coordination between the capital planning and information resources planning processes through the reporting of all capital items, including computer and communications equipment, through the capital planning process. Submissions were to be provided in a Board-approved electronic format.

The October meeting was held at the new Centralized Laboratory facility in Frankfort. In addition to approval of the capital planning guidelines for 1994-2000, the meeting included a brief presentation on the history and construction of the facility; following the meeting representatives of agencies located in the lab conducted tours of the building for Board members and other interested meeting attendees.

Guidelines for the 1994-2000 capital plans were distributed to the universities in October 1994 and to state agencies in January 1995. (The earlier date for the universities reflected the requirement that their plans be submitted to the Council on Higher Education (CHE) by January 15, 1995, so that the systemwide higher education plan could be

developed by the Council and transmitted to the Board by the April 15 due date.) In October 1994 and January/February 1995, CPAB staff, assisted by staff of the Governor's Office for Policy and Management (GOPM) and the Kentucky Information Resources Management (KIRM) Commission, conducted six one-day training sessions to familiarize agency and university planning personnel with the forms and instructions and the related computer software.

At its April 1995 meeting, the Board discussed the upcoming planning process; a major focus was the statutory planning requirements and the information which would be available for the Board's review from the agency and university plan submissions.

Agency and higher education systemwide capital planning submissions were due on April 15, 1995. 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. Capital construction and equipment projects submitted totaled \$4.6 billion.

The Board held a two-day meeting in July 1995 to review the capital plan submissions and to hear the testimony of agency and university representatives regarding their planning priorities. At its July meeting, the Board also received and reviewed recommendations and prioritized listings which it had requested from KIRM for computing and communications equipment items and from CHE for projects of the institutions of higher education.

Subsequent meetings in August and September 1995 focused on the development of Board recommendations based on information received at the July meeting. Also, at its September meeting, the Board received the Transportation Cabinet's draft *Six Year Highway Plan FY 1997-FY 2002*.

In October, the Board gave final approval to the draft of the 1994-2000 statewide capital improvements plan for submission to the heads of the three branches of government. For the first time since its creation, the Board recommended a prioritized listing of projects to be financed from state funds in the 1996/98 biennial budget, as well as making recommendations on projects to be financed from other than state funds. The Board's project recommendations are as follow:

- That the Governor and General Assembly provide state funding in the 1996/98 biennial budget, to the extent possible, for the capital projects listed at the end of this report. Two project listings are provided. The first listing identifies 97 projects which the Board believes should be considered in the priority order shown. The second listing consists of additional projects which the Board feels are also worthy of consideration.

- That the 1996/98 budget should authorize all projects proposed by state agencies and universities to be financed 100% from Federal Funds, Restricted Agency Funds, Other Funds, or Road Funds, with the following exceptions:
  - Projects which will require the expenditure of significant additional state General Funds for their operation and maintenance,
  - Projects which will commit the state to pick up significant costs to complete the project after the available Federal Funds/Restricted Agency Funds/Other Funds/Road Funds have been expended,
  - Restricted Agency 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 Agency Funds of the higher education institutions (other than those related to housing and dining and hospital operations) should be projects to address life/safety and deferred maintenance needs for which State Funds are not available, and
  - A high priority for the use of Road Funds should be projects to address life/safety and deferred maintenance needs.
- That the 1996/98 budget should authorize the financing of the following four specific projects from other than state funds:
  - CINS Upgrade/Expansion (Restricted Agency Funds)
  - CHE Restricted (Agency) Funds Bond Projects Pool (University Agency Bonds)
  - KY River Authority, Dam Modification and Release Valve Project (Agency Bonds)
  - Public Service Commission, New Facility (Agency Bonds)

In addition to the projects recommendations, a total of six other recommendations were adopted by the Board in conjunction with the 1994-2000 capital planning process, as follow:

**PROHIBIT DEBT FINANCING OF STATE PROJECTS WITHOUT LEGISLATIVE AUTHORIZATION**

The Board recommends that legislation be enacted to prohibit debt financing of state capital projects without prior approval by the General Assembly.

**SHARED USE OF PUBLIC HIGHER EDUCATION FACILITIES**

The Board recommends that the Council on Higher Education plan for shared facilities to be used by the various public higher education institutions.

### **REDUCE PRISON POPULATION GROWTH RATE**

The Board recommends that the Executive and Legislative Branches make every effort to identify alternatives to incarceration, consistent with public safety, that could reduce the prison population growth and the attendant need for the construction of new facilities.

### **MECHANICAL AND ELECTRICAL MAINTENANCE IN STATE BUILDINGS**

The Board recommends the establishment in the Division of Engineering of a consulting group to assist agency maintenance staff in the proper methods of maintaining and operating the sophisticated, computer-controlled air conditioning, heating, and electrical systems in state facilities. The Board also recommends that agencies provide for appropriate training for their maintenance personnel, and that maintenance personnel budgets not be subjected to a disproportionate share of cuts when budget reductions are required.

### **CHANGES TO CPAB STATUTES**

The Board recommends that the 1996 General Assembly enact legislation to amend KRS Chapter 7A relating to the capital planning process. (Such changes are intended to resolve inconsistencies between existing statutory language and the planning process as it has been implemented, to incorporate language currently in the administrative regulations, to clarify the role of participants in the planning process, including KIRM and CHE, and to make various changes in the planning process based on experience from the three plans developed thus far.)

### **INCREASE BUDGET RESERVE TRUST FUND**

The Board urges the Governor and the General Assembly to increase funding for the Budget Reserve Trust Fund by one percent each biennium, with the goal of establishing a reserve which is equal to five percent of General Fund revenues.

The complete report of the Capital Planning Advisory Board, the *1994-2000 Statewide Capital Improvements Plan*, will be submitted to the heads of the three branches of government by November 1, 1995, the statutory deadline.

### **Projects Recommended to be Financed from state funds\* Prioritized Listing**

- 1 Maintenance Pools (Various Agencies)
- 2 Emergency Repair, Maintenance and Replacement Fund (Finance)
- 3 Life/Safety and Governmental Mandate Pools (Various Agencies)
- 4 KSR/Replacement of Unit E, Maximum Security (Justice)
- 5 Capital Construction & Equipment Purchase Contingency Fund (Finance)
- 6 Slope Stabilization & Sewer Repair-Capitol Boiler Plant (Finance)
- 7 BCFC/Sewage Treatment Plant Supplemental Funds (Justice)
- 8 New State Office Bldg-Asbestos Abtmnt/Renov Projects (Finance)
- 9 The Workers Information System/TWIST (CHR)

- 10 800 MHz Digital Trunked Radio Statewide System (Finance)
- 11 Maximum Security Juvenile Detention Center (Justice)
- 12 Fort Boonesborough-Campground Electrical Upgrade (Tourism)
- 13 Flood Control Matching Program/See also Priority #56 (DLG)
- 14 School Facilities Construction/See also Priority #57 (SFCC)
- 15 KIA Fund A - Federally-Assisted Wastewater Program (Finance)
- 16 KIA Fund B - Infrastructure Revolving Loan Fund Program (Finance)
- 17 KIA Fund E - Solid Waste Loan Program (Finance)
- 18 Economic Development Bond Program
- 19 Fayette County Court Facility (AOC)
- 20 Design New State Office Building - Franklin County (Finance)
- 21 40-Bed Boy's High Intensity Residential Facility (CHR)
- 22 Secure Juvenile Detention Facility in Northern Kentucky (Justice)
- 23 Secure Juvenile Detention Facility in Western Kentucky (Justice)
- 24 Judicial Capital Construction Project Pool (AOC)
- 25 KTLN Interactive Classrooms and Hub Equipment (Finance)
- 26 Ashland CC Classroom Building
- 27 State Records Services Center (Libraries & Archives)
- 28 Hopkinsville-Regional Technical Training Center (Workforce Dev & UKCCS)
- 29 Law Information Network of Kentucky (LINK) Replacement (Justice)
- 30 NKU-Natural Science Building
- 31 Statewide Digital Basemap (Finance)
- 32 Pine Mountain-Develop Lake Area (Tourism)
- 33 Yatesville Lake-Marina Development (Tourism)
- 34 Taylorsville-Campground Development (Tourism)
- 35 General Butler-New Conference Center (Tourism)
- 36 Jefferson Davis-Visitors Center (Tourism)
- 37 Lake Cumberland-Additional Parking (Tourism)
- 38 Buckhorn-New Conference Room (Tourism)
- 39 Mineral Mound-Park Development (Tourism)
- 40 My Old Kentucky Home-Visitors Center (Tourism)
- 41 Lake Barkley-Golf Course Expansion (Tourism)
- 42 State Fair Board-Roof Replacement (Tourism)
- 43 MuSU-Carr Health/Cutchin Renovation
- 44 UL-Natural Sciences (Rebuild Parapet Walls)
- 45 New Capitol Annex-Exterior Repairs/Weatherproofing (Finance)
- 46 Imaging System/Server, Scanner, Storage-DSM (NREPC)
- 47 Record Format Conversion & Imaging Equipment (Libraries & Archives)
- 48 Hardin County Court Facility (AOC)
- 49 Statewide Case Mgmt & Offender Based Transaction Sys/COURTNET (AOC)
- 50 GRCC/New 250-Bed Medium Security Dorm (Justice)
- 51 Tax Return Processing-OCR & ICR (Revenue)
- 52 Danville/Boyle County Regional Training Center (Workforce Dev)
- 53 Hazard CC-Student/Performing Arts/Reg'l Classroom Center, Ph I
- 54 UL-Research Building, Health Science Center

- 55 UK-Aging/Allied Health Building
- 56 Flood Control Matching Program/See also Priority #13 (DLG)
- 57 School Facilities Construction/See also Priority #14 (SFCC)
- 58 Design New Western State Hospital (CHR)
- 59 Central State Recovery Project (Finance)
- 60 Construct 40-Bed Boy's Residential Treatment Facility (CHR)
- 61 MoSU-Dam Repair/Restoration
- 62 Industries for the Blind-Floor Settlement Correction (Workforce Dev)
- 63 WKU-Cherry Hall Window Replacement
- 64 UL-Medical/Dental Research Bldg Renov. Ph II
- 65 Cumberland Falls-New Interpretive Center (Tourism)
- 66 Yatesville Lake-Campground Development (Tourism)
- 67 Lake Barkley-Covered Pool (Tourism)
- 68 Jenny Wiley-Golf Course (Tourism)
- 69 Additional Special Event Horse Stalls (Tourism)
- 70 KSU-Chiller Additions
- 71 MoSU-Breckinridge Hall Renovation
- 72 NKU-Land Acquisition
- 73 Communications/Local Area Network System (KY Historical Society)
- 74 Star Channels Transponder Purchase (KET)
- 75 State Fair Board-HVAC Renovation & Replacement (Tourism)
- 76 KSB Food Services Bldg. Renovation (Dept. of Education)
- 77 MuSU-Blackburn Science Renovation
- 78 UKUS-Patterson Office Tower Elevators
- 79 UKUS-Agriculture North Renovation
- 80 KY Horse Park-HVAC Control System & Chiller Replacement (Tourism)
- 81 Weights & Measures Testing Equipment Pool (Agriculture)
- 82 Local Health Network (CHR)
- 83 Electronic Employee File System (Personnel)
- 84 Technology Equipment Upgrade Pool (Workforce Dev)
- 85 UKUS-Mechanical Engineering
- 86 MoSU-Land Acquisition Related to Campus Master Plan
- 87 Construct Eight(8)-Bed IC/MR Facility (CHR)
- 88 WKU-Renovation of Academic-Athletic Complex #1
- 89 ECU-Cammack Building Renovation
- 90 Equipment Replacement Pool (Dept. of Education)
- 91 Point of Sale Devices & Telecommunications (CHR)
- 92 Jefferson County Court Facility (AOC)
- 93 UKUS-Telemedicine Systems
- 94 Agriculture Technology Restructure System (Agriculture)

- 95 Tax Return Processing-Data Capture System (Revenue)
- 96 KSP-New LaGrange Post Facility (Justice)
- 97 Hazelwood-Renovate Main Bldg/1st, 2nd, & 3rd Floors (CHR)

\* NOTE:The generic term "State Funds" has been used, rather than specifying the source of those funds (e.g., General Funds, State Bonds, Investment Income, Capital Construction Surplus), in order to provide flexibility for decision makers to specify the most appropriate source when the budget is developed.

**Projects Recommended to be Financed from State Fund\*  
(Other Projects Worthy of Consideration - Not Prioritized)**

- Human Services Construction Pool - Additional Budget (CHR)
- CHR Central Complex - Fiber Optic Cabling (CHR)
- Misc Projects Cash Pool Minor Equipment Purchase (CHR)
- Replace Coal Fired Boilers with Gas Fired-Central State Hospital (CHR)
- Emergency Generator Replacement-Glasgow SNF (CHR)
- CHR Complex-Roof Replacement (Finance)
- Capitol Bldg. Skylight Replacement (Finance)
- Veterans Center Warehouse Addition (Finance)
- Network Communications Equipment & Infrastructure (Libraries & Archives)
- Inductively Coupled Plasma/Mass Spectrograph/Quad (NREPC)
- Tax Return Processing-Mail Sorter (Revenue)
- Parks Central Office-Boundary Surveys (Tourism)
- State Fair Board Surfacing and Repaving (Tourism)
- EKU-Academic Building
- KSU-Student Center Renovation
- MuSU-Expo Center Renovation
- MuSU-Interactive TV Center/Multi-Media Production Facility
- MuSU-Business Renov. 1st Floor/Entrance
- MuSU-Campus-Wide Networking/Campus Backbone Network
- NKU-Instructional Technology Project
- UKUS-Pence Hall Renovation
- UKUS-Slone Building Renovation
- UKUS-4KV to 12KV Electrical Conversion
- UKUS-Chiller Replacement
- UKUS-Kastle Hall Renovation
- UKUS-Electrical Substation #1 Switching
- UL-Oppenheimer Hall Renovation
- UL-Miller Technology Center, Ph III
- WKU-Agriculture Exposition Center Air Conditioning
- WKU-Renovation of Institute for Economic Development
- WKU-Renovation of Snell Hall
- WKU-Renovation of Glasgow Campus
- WKU-Renovation of Van Meter Hall
- WKU-Renovation of Grise Hall

Industries for the Blind-New Warehouse & Renovations (Workforce Dev)  
 Shelby Co. New State Vocational Technical School (Workforce Dev)  
 Perkins Rehab Center-Therapeutic Services Expansion (Workforce Dev)  
 Perkins Rehab Center-Rooftop Unit Replacement (Workforce Dev)  
 Replace Veneered Wall Coverings - Whitney Hall & Main Lobby (Center for the Arts)  
 Monitor System for Bomhard Theater (Center for the Arts)  
 Louisville Zoo Expansion, Phase I (Economic Development)  
 KSP-Radio System Replacement (1&2) (Justice)  
 EKU-Student Service Building  
 EKU-Gibson Building Complex  
 KSU-Center for Excellence for Study of KY African-Americans  
 NKU-Covington Campus Renovation  
 UKUS-Medical Center Chilled Water Loop  
 UKUS-Chilled Water Additions  
 UKUS-Steam Line Expansion Rose Street  
 UKUS-Bowman Hall Renovation  
 UKUS-Animal Science Research Center, Phase I  
 UKUS-Cooling #3 to Lime Chilled Water Pipe  
 UKUS-Cooling Secondary Pumping  
 UL-Founders Union Renovation  
 UL-Multi-Cultural Center Building  
 UL-Property for Support Services  
 UL-Urban Research Institute Renovation  
 UL-Business/Public Admin. Classroom Renov.  
 WKU-Air Conditioning for Academic-Athletic #1  
 WKU-Electrical Upgrade of Normal Drive Substation

\* NOTE:The generic term "State Funds" has been used, rather than specifying the source of those funds (e.g., General Funds, State Bonds, Investment Income, Capital Construction Surplus), in order to provide flexibility for decision makers to specify the most appropriate source when the budget is developed.

**REPORT OF THE 1994-95  
CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

**Representative Robert R. Damron, Chair  
Senator Jeff Green, Vice-Chair**

Sen. Charlie Borders  
Sen. Bob Leeper  
Rep. Jim Maggard

Rep. Tommy Todd  
Rep. Jim Wayne

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

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 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 the related individual projects; and, (5) the issuance of bonds by or on behalf of local school districts.

### **COMMITTEE ACTIVITY**

The Committee has met 12 times since November of 1994. It has reviewed 67 projects, totaling approximately \$36.9 million, submitted by the Finance and Administration Cabinet, the University of Kentucky, and the University of Louisville. The Committee has reviewed 5 economic development bond (EDB) pool projects, totaling \$527,850, and one budgeted EDB project with line-item authorizations totaling \$26,000,000.

The Committee reviewed 29 Kentucky Infrastructure Authority (KIA) loans to local government entities for public infrastructure projects, including:

1. Fund A (Federally Assisted Wastewater Revolving Loan Fund) - 14 loans, totaling \$32,594,601.
2. Fund B (Infrastructure Revolving Loan Fund, state-funded) - 2 loans, totaling \$830,000.
3. Fund C (Government Agencies Program, user-supported) - 5 loans, totaling \$9,306,134.
4. Fund E (Solid Waste Revolving Loan and Grant Fund, state-funded) - 8 loans, totaling \$3,139,685.

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

1. One KIA bond issue, totaling \$17,525,000, to fund approved public infrastructure projects and to refinance existing debt.
2. Two Kentucky Economic Development Finance Authority (KEDFA) bond issues, totaling \$58,950,000; the state is only a conduit for the sale of these bonds and has no liability for their repayment.
3. Three composite bond issues, with gross proceeds of \$306 million, to provide \$170 million in "new money" to fund the University Life Safety Pool projects, 64 projects authorized or reauthorized by the 1994 General Assembly (including the Kentucky History Center, the Commonwealth Convention Center Expansion, the

Northern Kentucky Convention Center, and 50 Parks Renovation projects), and 6 approved EDB pool projects; and to provide \$136 million to refund previous bond issues.

4. Four bond issues, totaling \$46,575,000, for the state universities, to fund authorized projects and to refund existing debt.
5. One Kentucky Higher Education Student Loan Corporation (KHESLC) issue, totaling \$15,980,000, to refund existing bonds.
6. Kentucky Housing Corporation - 4 bond issues, totaling \$113,000,000, to fund the purchase of low-income housing mortgages and to refund existing financings.
7. Fifty local school district bond issues, totaling \$213,523,000, with state debt service participation through the School Facilities Construction Commission (SFCC).
8. Twenty-one local school district bond issues, totaling \$33,075,000, with 100% locally-funded debt service.
9. One Turnpike Authority bond issue, totaling \$314,111,000, to provide \$150,000,000 of "new money" for road projects, and to refund existing debt.

The Committee reviewed 13 state agency lease modifications involving the amortization of the cost of agency-requested leasehold improvements, 41 lease modifications involving square footage increases or decreases, and 3 renewed or expanded leases with annual rentals exceeding \$200,000.

The Committee reviewed an unbudgeted computer equipment project submitted by the Kentucky Lottery Corporation (KLC), as well as a 3-year lease extension pending the availability of the KLC's authorized new Headquarters facility, and the KLC's acquisition of property in downtown Louisville to be renovated as its new Headquarters.

The Committee reviewed an audit of the state's capital projects program, which was conducted pursuant to House Bill 258, enacted by the 1992 General Assembly, as well as separate audits of the capital projects programs at the University of Kentucky and the University of Louisville.

The Committee expressed concern about the funding level for the state's two capital project contingency accounts, particularly the emergency repair, maintenance and replacement account. Of the \$2,000,000 appropriated to the emergency account for the 1994-96 biennium, \$1,160,000 was restricted for expenditure on the Central State Hospital Recovery project. Also, with 11 allocations for emergency projects in FY 1995, the net drain on the account in that year was \$3.03 million. In July 1995, the Committee Chairman wrote to the Governor, recommending that the call of the upcoming Special Session of the General Assembly include a transfer of \$4 million from the budget surplus to replenish the emergency account. In his response on behalf of the Governor, the Secretary of the Cabinet and State Budget Director stated that the significant decline in the emergency account was also a matter of concern to the Administration; however, he went on to indicate that one of the reasons the issue was not on the call was that the emergency account's cumulative available balance, \$9.8

million, was a "significant balance" for conducting the state's business. The Secretary also stated he believed the proposal to transfer \$100 million of the surplus to the Budget Reserve Trust Fund, which was later accomplished in the Special Session, was consistent with the Committee's concern about maintaining an adequate reserve account for unexpected emergencies and future events.

The Committee received reports from the State Auditor of Public Accounts and the Attorney General on their findings regarding three State Fair Board projects - Maintenance Building, Access Road Completion (including the Horse Walk), and Exhibit Hall Expansion. This review resulted in a bill draft to provide statutory penalties for state officials who undertake unauthorized capital projects.

The Committee also reviewed the findings of the State Auditor of Public Accounts regarding the Lexington World Trade and Cultural Center project and the related property acquisitions (the "Ben Snyder Block"), and has requested a report from the Attorney General on actions that may be pursued based on the State Auditor's findings.

At its October 1995 meeting, the Committee heard a presentation from representatives of the University of Kentucky concerning the University's plan to take over Lees College, a two-year private institution, to be used as a campus of Hazard Community College. There followed a lengthy discussion by Committee members as to whether the University's action was an "acquisition," which requires authorization by the General Assembly, or a "gift," which would not require General Assembly authorization.



**REPORT OF THE 1994-95  
PERSONAL SERVICE CONTRACT REVIEW SUBCOMMITTEE**

**Rep. Mark Farrow, Chair**

Sen. Denney Nunnally  
Sen. Barry Metcalf  
Sen. Eck Rose

Rep. Jesse Crenshaw  
Rep. Bob Heleringer  
Rep. Marshall Long

LRC Staff: Allan Alsip, Joe Hood and Ann Disney

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1996 REGULAR SESSION OF THE  
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## **PERSONAL SERVICE CONTRACT REVIEW SUBCOMMITTEE**

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

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

Being a statutory Subcommittee of the LRC, the Personal Service Contract Review Subcommittee met once a month (12 meetings) during the 1994-95 Fiscal Year. The Subcommittee reviewed 1533 contracts and 707 amendments for the 1994-95 fiscal year. Three contracts/and or amendments were disapproved. The Subcommittee also reviewed a total of 173 contracts for amounts under \$1,000, that are submitted for informational purposes only.



**REPORT OF THE 1994-1995  
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

**Representative Jack Coleman, Chair  
Senator Joey Pendleton, Co-Chair**

Sen. Tom Buford  
Sen. Paul Herron  
Sen. Nick Kafoglis  
Sen. Tim Philpot  
Sen. Dick Roeding  
Sen. Larry Saunders

Rep. Adrian Arnold  
Rep. Joe Barrows  
Rep. Don Farley  
Rep. Mark Farrow  
Rep. Gippy Graham  
Rep. Harry Moberly, Jr.  
Rep. Clarence Noland

LRC STAFF: Joseph Fiala, Assistant Director, Sheila Mason, Committee Staff Administrator, Anne Armstrong, Lowell Atchley, Betty Davis, Michael Greenwell, Alice Hobson, Doug Huddleston, Adanna K. Hydes, Henry Marks, John Snyder, and Jare Schneider, and Bonnie Jezik and Jo Ann Paulin, secretaries.

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

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

Any official in the executive, judicial or legislative branches of government may request a study. It takes a final 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**

The Committee has conducted 18 meetings through November 1995. Major research work completed or under way includes: a follow-up of the Kentucky Association of Counties (KACo) 1993 self-insurance and loan program study; reports on Kentucky's state park system and park marinas; a preliminary research report on the Kentucky Cabinet for Human Resources (CHR) that led to three studies either completed or scheduled for completion in 1995; studies on local government municipal solid waste facilities, uniform school opening date, state agency use of memorandums of agreement and delegated contract authority; and research work on privatization of state government.

#### **Research Reports**

In its first meeting of the interim, the Committee adopted its final report on the Department of Parks. That report contained 19 recommendations calling for more aggressive internal fraud and waste prevention activities, personnel actions, including longevity raises, and the elimination of patronage and restructuring of some positions. The Committee indicated its satisfaction with a report in August 1995 that parks officials had instituted most of the recommendations in the earlier study.

Findings in the parks study spurred a subsequent study on the Parks Department's leases for State-owned marinas. The study, undertaken in May 1994, was still awaiting Committee adoption late in the interim because of a pending lawsuit and other outstanding issues. The 11 recommendations in the study focused on license bidding and streamlining, and long-range business and management matters.

Privatization became an issue in the marina study. As a result, the Committee met with members of the Governor's Privatization Committee, and officials with the State

Auditor, and State Finance and Administration Cabinet. The Committee devoted a portion of its July 1995 meeting to the issue and expressed an interest in tracking the efforts of the Privatization Committee in coming up with privatization guidelines.

Following completion of a major analysis of KACo's self-insurance and loan programs, the Committee undertook a study of the KACo Advanced Revenue Program. That study concentrated on the program's investment arrangement with a stock brokerage and investment firm. Evidence indicated that the investment proposal could have resulted in a loss of nearly \$32 million in funds being used to buy bogus "prime bank guarantees." The Committee forwarded evidence collected in the study to the Attorney General, the FBI, State Police and the State Department of Financial Institutions to investigate. Ultimately, the alleged scam was exposed and litigation resulted.

Three studies in 1995 grew out of a preliminary review in 1994 of the CHR. The preliminary review examined the administration, adequacy of service delivery, public protection role and federal fund use within the State's largest cabinet.

The first of the three studies that grew out of the CHR preliminary study was an examination of the nature and size of Department for Social Services social worker caseloads and whether caseloads had an impact on service delivery. Presented to the Committee in September 1995, the study recommended a re-examination of the formula used to calculate worker caseloads, and a review of social worker tasks, the amount of time family service workers spend in court and program effectiveness measures.

The CHR public protection study examined the cabinet's role in protecting individuals or the general public from incidents of neglect and abuse, or unsafe conditions or products. The study looked at an array of CHR roles, such as licensing, regulating, certifying, inspecting, monitoring and providing protective services.

The third CHR study, eligibility, examined how the cabinet screens individuals seeking social services in Kentucky, and monitors them once they are admitted to the system. Both the public protection and eligibility studies were scheduled to be presented to the Committee in November and December 1995.

Aside from the major studies, the Committee also was involved in several information requests that were smaller in scope, but required significant research time. A review completed in February 1995 examined landfill operations in the State, both public and private, that were required to be permitted after July 1, 1995. The study, adopted by the Committee, contained both short- and long-term remedies addressing the landfill permit review process and suggested formation of a work group on the landfill issue.

A study presented to the Committee in the form of a memorandum in May 1995 examined the issue of having a uniform opening day for public schools in Kentucky. The study found most educators opposed to the idea, while many in tourism-related businesses favored it.

It was anticipated that at least one study would continue into the 1996 session, a review of how state agencies use employee memorandums of agreement and employment contracts that are exempt from Finance Cabinet oversight and approval. The Committee authorized the study in its September 1995 meeting.

### **Litigation**

During the interim, two lawsuits challenged the statutory right of the Committee to obtain information needed in its review work. A lawsuit filed in late summer of 1994 by KACo contended the Committee had no right to review the organization because of its quasi-governmental status. The lawsuit was later dropped.

Still pending before the Kentucky Supreme Court was a lawsuit filed by some private marina operators under contract with the Department of Parks who contended their financial records were confidential and shouldn't be shown to the Committee. In June, the court ruled the records could be viewed by the Committee, but had to otherwise remain closed to public view. The court hasn't ruled on a Committee request to modify the ruling.



**REPORT OF THE 1994-95  
KENTUCKY LEGISLATIVE COMPENSATION COMMISSION**

**Richard Lewis, Chair**

John R. Fleming, Jr.  
Raymond L. Hardebeck  
Henry Lackey  
June Lyne  
Raymond Overstreet

LRC STAFF: Vic Hellard, Jr., Barri Christian, Bob Doris, Bill Phelps, and Jeanie Smith

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **KENTUCKY LEGISLATIVE COMPENSATION COMMISSION**

**JURISDICTION:** Pursuant to KRS 6.226-229, the Legislative Compensation Commission is charged with the continual study of all matters relating to legislative compensation. Areas of study include but are not limited to: legislative salaries; expense allowances; mileage allowances; stationery and supplies allowances and procurement; postage and shipping allowances; retirement benefits and programs; insurance programs; medical, dental, and health-related programs; deferred compensation programs; housing policy; and other matters the Commission deems prudent to investigate and report on.

### **COMMISSION ACTIVITY**

Since its inception in February, 1995, the Legislative Compensation Commission (LCC) has held five meetings. The LCC issued its 1995 report and recommendations to the Legislative Research Commission on September 6, 1995.

At its first meeting, March 1, 1995, the LCC reviewed statutory, constitutional, and LRC policy provisions relating to legislative compensation, salary, and expense schedules. Members studied the history of legislative compensation from 1847 to the present, bills from 1970 which affected compensation and retirement, and the National Conference of State Legislatures' 1995 Legislator Compensation Survey.

At its second meeting, April 5, 1995, the Commission discussed professional vs. citizen legislatures; full-time vs. part-time legislatures; state comparisons of the length of regular sessions and the number and length of special sessions; state comparisons of legislative salaries, expenses, and retirement; and a comparison between Kentucky magistrates' salaries and legislative salaries. The Commission voted to send a "Time and Cost Allocation Survey" to current members of the General Assembly to gauge legislator workload and expenses in Frankfort, as well as in district.

At its third meeting, June 3, 1995, the Commission reviewed the results of the Time and Cost Allocation Survey. Results indicated legislative concern for the increasing amount of time and cost required for legislative business, especially in-district activities. The Commission then considered a report that indicated that while legislative compensation had not changed since 1984, the Consumer Price Index had increased 42.6 percent. The members considered a proposal to increase legislative salaries and expenses on January 1, 1997, by this increase in the CPI. The Commission scheduled a public hearing to allow anyone interested the chance to discuss the proposed raise.

The Commission's fourth meeting, August 2, 1995, was devoted to public testimony regarding the CPI-factored raise in legislative compensation. As no one requested to address the pending motion, the Commission rescheduled the public hearing. Members then discussed various in-district telephone options and related costs.

At the Commission's fifth meeting, September 6, 1995, the floor was once again opened for public comment. After approximately two hours of discussion by concerned citizens, the Commission voted to adopt its 1995 report, to be submitted to LRC on October 4, 1995. The recommendations were:

1. On January 1, 1997, and each January 1 thereafter, the legislative per diem (currently \$100) should be increased by the same percentage received by state employees during the same fiscal year.
2. Beginning on January 1, 1997, and each January 1 thereafter, the legislative interim monthly expense allowance should be increased by the Consumer Price Index for the previous calendar year.
3. Beginning January 1, 1997, each legislator should secure a WATS line and 800 number for constituent matters and should receive a \$50 per month legislative allowance to offset the costs. Upon submission of a bill, LRC shall reimburse each member the actual cost of installation, if any.
4. Beginning January 1, 1997, each legislator should receive a mailing allowance account within the Legislative Research Commission, from which the cost of legislative-related mail may be deducted, if mailing is posted through a centralized system within LRC. The mailing allowance should be \$100 per month while in session and \$50 per month during nonsession months. The mailing allowance should be used only for centralized mailing, and any account balance not expended by June 30 of each year should lapse and not be carried forward.
5. Beginning January 1, 1997, each legislator should receive a stationery allowance account within the Legislative Research Commission, from which the cost of legislative stationery can be deducted if stationery is purchased through a centralized system in LRC. The stationery allowance should be \$200 per year. The stationery allowance should be used only for LRC-purchased stationery, and any account balance not expended by June 30 of each year should lapse and not be carried forward. The current \$50 stationery allowance for each session should be abolished.

**REPORT OF THE 1994-95  
TASK FORCE ON DOMESTIC VIOLENCE**

**Senator Jeff Green (Co-Chair)  
Representative Leonard Gray (Co-Chair)**

Senator Fred Bradley  
Senator Elizabeth Tori  
Representative Paul Mason  
Representative Mike Bowling  
Representative Ruth Ann Palumbo

Senator Michael Moloney  
Senator John David Preston  
Representative Steve Nunn  
Representative Frank Rasche

Susan Johns, *former State Senator*  
Jerry Bowles, *Director of Domestic Violence Unit, Jefferson County Attorney's Office*  
Paul Isaacs, *Director, Administrative Office of the Courts*  
Sherry Currens, *Executive Director, Kentucky Domestic Violence Association*  
Kathy Frederick, *Adult Protection Specialist, Department for Social Services*  
Carol Jordan, *Administrator, Sexual & Domestic Violence Program, Dept. for Mental Health*  
Sheriff Tom Scillian, *President, Kentucky Sheriffs Association*  
Commissioner Chuck Sayre, *Department of Criminal Justice Training*  
Major Dennis Goss, *Kentucky State Police, Information Services Branch*  
Major Kathy Witt, *Fayette County Sheriff's Office*  
Marcia Roth, *Director, Jefferson County Office for Women*  
Marsha Weinstein, *Executive Director, Kentucky Commission on Women*  
Dr. Baretta Casey, *Chair, Domestic Violence Committee, Kentucky Medical Association*  
The Honorable Lana Grandon, *Assistant State Attorney General*  
The Honorable Lewis Paisley, *Fayette Circuit Judge*  
The Honorable Steve Mershon, *Jefferson Family Court Judge*  
The Honorable Peter Macdonald, *Christian District Judge*  
The Honorable Virginia Whittinghill, *Jefferson District Judge*

LRC STAFF: Susan Lewis Warfield, Scott Varland, and Mac Lewis.

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **TASK FORCE ON DOMESTIC VIOLENCE**

**JURISDICTION:** This Task Force was created by the Legislative Research Commission to study the causes and extent of domestic violence in Kentucky families, explore the implementation and enforcement of existing laws dealing with domestic violence, and develop legislative and budgetary recommendations for the 1996 Regular Session of the Kentucky General Assembly.

### **TASK FORCE ACTIVITY**

The Legislative Research Commission authorized the creation of the Task Force on Domestic Violence at its September 26, 1994 meeting. The Task Force members include not only legislators, but also representatives of the judiciary, prosecutors, law enforcement, social services, mental health, victims services, court administration, and advocates. The Task Force held thirteen meetings through October, 1995 and concluded its work by reaching a consensus on sixteen recommendations which are included in this report. Subject to the Legislative Research Commission's approval, the Task Force will meet once more prior to the 1996 Regular Session, primarily to review bill drafts which incorporate the final recommendations.

### **Special Guest Speakers**

In February 1995, United States Attorney General Janet Reno addressed the Task Force via telephone from her Washington, D.C. office. Her remarks centered on the key provisions of the Violence Against Women Act signed into law by President Clinton in 1994. General Reno expressed appreciation for the commitment Kentucky leaders had demonstrated in addressing the crime of domestic violence. She particularly commended the members for the participation of all three branches of state government in the development of a comprehensive solution to the issue of domestic violence. The Task Force suggested the Commonwealth be used as a "laboratory" for development of a model response to the federal initiatives. General Reno responded with encouragement and issued an invitation to prepare a program proposal and funding request to develop a model for the nation. The proposal has been submitted to the U.S. Department of Justice and is currently being considered.

In April 1995, the Task Force held a joint meeting with the Kentucky Supreme Court Gender Fairness Committee in order to hear from Bonnie J. Campbell, the Director of the Violence Against Women Office of the U.S. Department of Justice. The members were also joined by Kentucky's U.S. Attorneys. Ms. Campbell reported on the availability of federal domestic violence funding and explained the role her office will play in coordinating the national response to domestic violence crimes. Ms. Campbell praised the Kentucky Legislature for involving representatives of federal, state, and local government, as well as representatives of diverse interests in the effort to deal with the issue of domestic violence.

During the interim, the Task Force was addressed by several nationally recognized experts including Sara Buell, Prosecutor in Quincy, Massachusetts (via teleconference); Ann Crowe, Council on State Governments; Andy Klein, Chief Probation Officer in Quincy, Massachusetts; Ted Wedel, Attorney and Research Analyst for the Missouri House of Representatives representing the National Council of Juvenile and Family Court Judges; and Dr. Ann Ganley concerning the certification of providers of court ordered treatment for offenders in the state of Washington (via teleconference).

Several professional associations were invited to address the Task Force, including the Kentucky Domestic Violence Association; County Attorneys Association; Commonwealth's Attorneys Association; Kentucky Sheriff's Association; Circuit Clerks Association; Circuit Judges Association; District Judges Association; and Kentucky Medical Association. In addition, members were addressed by representatives of the Crime Victims' Compensation Board; Kentucky Parole Board; and Prosecutors' Advisory Council. Contribution to the work of the Task Force was also made by representatives of local agencies. And of course, the testimony from victims of domestic violence was a key part of Task Force deliberations.

### **Demonstrations**

Task Force members observed a demonstration of the Law Information Network of Kentucky, referred to as LINK. Personnel from the Kentucky State Police, with the assistance of a LINK terminal operator from the Fayette County Sheriff's Office, explained the capabilities of the computer network in quickly providing law enforcement officers 24-hour statewide access to information critical to the performance of their duties. A presentation was also made by Interactive Systems, Inc. to demonstrate the automated victim notification system currently used in Jefferson County.

### **Issues Discussed**

The Task Force reviewed current Kentucky statutes relating to domestic violence and invited Task Force members to identify key issues to be discussed. Early presentations explored the nature and extent of domestic violence in Kentucky and furnished a profile of both abusers and their victims, based on Kentucky and national data. Major topics explored by the Task Force include:

#### **Ensuring Victim Safety**

- 1 The "cost of system failure" paid by victims and their families.
- 1 The incidence of domestic violence related homicide-suicide in 1994.
- 1 The inherent danger of the first 24-hours after the victim leaves the abuser.
- 1 The need for consistent and uniform success in the timely service of protective orders.
- 1 The need for full and immediate access to protective orders in all communities.
- 1 The additional funding needed to accommodate victims and families seeking shelter.
- 1 The need to assist victims in filing requests for protective orders.

- 1 The need to provide representation for the victim in civil proceedings.
- 1 The use of automated systems which notify victims when an offender is released.
- 1 The eligibility requirements for crime victims' compensation funds.

### **Strengths And Weaknesses Of "The System"**

- 1 Law enforcement is the critical first response in most cases.
- 1 The need to extend warrantless arrest authority to a wider array of peace officers.
- 1 Law Information Network of Kentucky (LINK) as a vital communication component.
- 1 Social Services response to a dramatic increase in adult protective services reports.
- 1 The role of prosecutors in cases of domestic violence.
- 1 Civil proceedings as an added remedy instead of an alternative to criminal prosecution.
- 1 The role of Circuit Court Clerks in domestic violence proceedings.
- 1 The role of District, Circuit, and Family Court judges in domestic violence cases.
- 1 The role of judges in civil proceedings when the victim is not represented in court.
- 1 The limited availability of sentencing alternatives for offenders such as probation.
- 1 The efforts to improve the response by health care professionals to domestic violence.
- 1 The limited access to mental health services for victims, children, and perpetrators.
- 1 Certifying providers of court ordered treatment for domestic violence offenders.
- 1 The parole eligibility of battered women convicted of crimes against their abuser.

### **Recommendations**

The recommendations made by the Legislative Task Force on Domestic Violence relate to the creation of a state multidisciplinary authority, encouraging development of local interagency councils, and requiring special training and development of model policies for several agencies and professions. The Task Force also recommends addressing concerns regarding protective orders, revising the elements for certain crimes, revision to some aspects of warrantless arrest authority and expansion of court alternatives, and it supports requiring certification for law enforcement officers. In addition, the Task Force suggest the General Assembly comply with the provisions within the Violence Against Women sections of the federal Crime Act of 1994, improve funding for victim safety, including victim advocacy, and revise the membership of the Crime Victims Compensation Board.



**REPORT OF THE 1994-95  
TASK FORCE FOR A COMPREHENSIVE  
STUDY OF HIGHER EDUCATION**

**Senator John A. "Eck" Rose, Co-Chair  
Representative Jody Richards, Co-Chair**

Dr. S. Kern Alexander II  
Dr. Leon E. Boothe  
Sen. Charlie Borders  
Sen. Tom Buford  
Rep. Freed Curd  
Dr. Ronald G. Eaglin  
Rep. Ernest Fletcher  
Dr. Deborah L. Floyd  
Rep. Danny Ford  
Dr. Hanly Funderburk

Sen. David Karem  
Ms. Beverly Keepers  
Dr. Thomas C. Meredith  
Sen. Joseph U. Meyer  
Rep. Greg Stumbo  
Dr. John Shumaker  
Dr. Mary L. Smith  
Mr. James Way  
Dr. Charles Wethington

LRC STAFF: Sandra Deaton, Ethel Alston, Bonnie Brinly, Wes Butler,  
Donna Little, Charles Shirley and Penny Robbins

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **TASK FORCE FOR A COMPREHENSIVE STUDY OF HIGHER EDUCATION**

The Task Force for a Comprehensive Study of Higher Education was established by a resolution of the Legislative Research Commission adopted on June 6, 1995. The Task Force was composed of ten legislators, eight representatives of higher education, and three citizens at-large. Its mission was based on the Commission's concern that higher education be prepared to meet the challenges of the next century.

The Task Force met six times to gather information for its report. It met in December, 1995, to finalize recommendations to be submitted to the Legislative Research Commission and the 1996 Session of the General Assembly. A summary of the testimony presented to the Task Force and Task Force recommendations follow.

### **Higher Education and the Public Good**

The Chairman of the Southern Regional Educational Board's (SREB) Commission for Educational Quality addressed the Task Force at its first meeting. The Commission stressed the value of higher education in a time of change and underscored the need for higher education to change in such a world. Its report, "Changing States, Higher Education and the Public Good," was released in February, 1994. The Commission documented several indicators of higher education's loss of priority in the SREB states, including: a 26% increase in enrollment; funding growth only 4% above inflation; and a 48% increase in tuition and fees for in-state undergraduates. In Kentucky, enrollment grew by 31%, state funding adjusted for inflation rose 2%, and tuition and fees increased 52%.

The Commission concluded that higher education is America's number one asset, that its value is not sufficiently recognized, and that higher education must change if colleges and universities are to be the dynamic force the country needs. Colleges and universities should strengthen their ties with their communities and build stronger connections with the public schools.

Good government spends its money to protect its citizens and to invest in the future. Employment and education are necessary to support the growing prosperity of the state. The United States started out as a poor, struggling, and colonized nation, and will return to that condition if its children do not have the ability to compete in the global market place. Our economic future depends on our ability to compete, but our ability to compete depends upon our ability to educate.

Members of the Kentucky Advocates for Higher Education presented the Advocates' position paper on higher education. The Advocates raised concerns about the increasing enrollment and diminishing funding of Kentucky institutions over the past fifteen years. They propose making the state's higher education institutional funding equal

to the average of surrounding states, a position supported by the presidents of each of the state's public universities and the Council on Higher Education.

They urged the Task Force to: 1) help build public confidence in Kentucky's higher education system; 2) recognize the tie between higher education with the state's future economic growth; and 3) insist on adequate funding. The Advocates urge the university presidents to: 1) be united and recognize that territorial battles further erode public confidence; and 2) accept and welcome continued scrutiny, continuing efforts to restructure; and continuing efforts to remove inefficiencies.

## **Higher Education Accountability**

### **Kentucky's Accountability Process**

A former state senator addressed the Task Force concerning higher education accountability and 1992 Senate Bill 109. Higher education is the state's largest discretionary budget item and competes with other responsibilities of state government for its funding. The higher education system needs to prove its accountability. The purpose of Senate Bill 109 is to measure the progress of each institution on fourteen performance standards for which data are collected. The initial report, delivered in December, 1993, established the baseline for each institution.

The Executive Director of the Council on Higher Education explained the Council's program approval process, authorized in KRS 164.020(8). Over the last thirteen years, the Council and the institutions have worked together to eliminate almost 500 academic programs. Since 1994-95, about 165 programs have been eliminated because they were inactive or had small student enrollments. This process helps refine the direction of higher education in Kentucky.

The Council believes it is important to share accountability information in order to communicate results. The accountability reports enable them to present more organized information that can be evaluated by the legislature and enhance the public trust in higher education.

Biennially, the Council sends surveys to students, alumni, parents, and clients, and a report is prepared for each university and community college, as well as for the system as a whole. The results showed that 70% to 90% of the baccalaureate students rated overall instruction as good or excellent at the universities; and 86% to 100% rated instruction good or excellent at the community colleges. Sixty-two percent to 85% of the university alumni rated the curriculum as good or excellent in providing job-related skills and knowledge; 68% to 100% of community college alumni rated their curriculum as good or excellent. About nine out of ten parents indicated that the quality of their offsprings' education was good or excellent. These surveys are developed with technical assistance, in order to gather objective information.

### **Performance Funding**

The Council on Higher Education's strategic planning process sets the objectives for the performance funding model. It establishes goals and helps determine where to put resources. The higher education community believes dollars should be tied to accountability through performance funding.

The 1994 budget bill directed higher education to develop a long-range, ongoing performance funding system. The performance funding process was begun as a one-year experiment in 1995-96, with the new funds appropriated for 1995-96 being distributed in five categories. Within the five categories, the institutions identified their emphasis in accordance with their mission statement. The Council will include performance funding in its budget recommendation to the next session of the General Assembly.

The performance funding model for 1996-98 will distribute new resources in the areas of current services, equity, and performance. The decision was made initially to put more money into equity and less into performance, to get the institutions to a level playing field. One-fourth of the new money will go to performance.

The performance measures are being developed and will recognize both statewide priorities and institutional differences. The Council will recommend to the General Assembly that any money not distributed through the performance system go to some common activity in higher education, such as technology, maintenance, or libraries.

### **Program Duplication/Campus Expansion**

The issues of access and duplication drive the discussion about academic programming in the system. In an effort to balance access, reduce duplication, and make the best use of resources, an attempt has been made to establish a group of nucleus programs, such as English, history, and the basic sciences, that will be available on every campus.

In 1989, the Council on Higher Education revised its off-campus guidelines and incorporated the concept of extended campus centers. Currently there are twelve extended campus centers in Kentucky.

A trend in higher education is the changing character of the student body. In 1994, over forty percent of the higher education enrollment was made up of students 25 years of age and older. These students have different needs than the typical eighteen-year-old student. They do not live on campus and often have family and job responsibilities. Extended campus centers are accessible and benefit these mature students by delivering academic program opportunities.

From 1984 to 1993, the total headcount for higher education increased by 39% and the community college headcount increased by 104%. Part of the growth was created by off-campus student demand. The 1989 revision of the extended campus policy of the Council on Higher Education attempted to meet these needs. The Council is looking for

other ways to more quickly respond to changing employment needs and the needs of the state in higher education. Strategic planning includes new technologies, in which many universities have been leaders. The need for cooperation will continue to grow, as will finding ways to deliver instruction at the lowest cost and highest quality.

## **Higher Education Finance**

### **The Funding Formula**

KRS 164.020(4) directs the Council on Higher Education, in cooperation with the university presidents, to devise, establish, and periodically review and revise formulas for use in making recommendations to the Governor and the Legislature for use in making appropriations to the institutions of higher learning. The formulas are to provide for adequate and equitable allocation of funds among the universities, considering their respective needs and missions. A review of the funding model was required for the 1994-95 interim.

The Vice-Chairman of the Council on Higher Education explained the major state funding policy issues in higher education that impact the funding model. The decline in state revenue for higher education, coupled with significant enrollment growth, has caused a decrease in funding per student. Higher education's share of the state's general fund budget has decreased from 20% to 14% over the last twenty years.

The state appropriation for higher education was \$10 million less in 1995-96 than in 1991-92. Over a sixteen-year period, the appropriation per student, adjusted for inflation, fell by 32.5%. Alaska and Kentucky are the only two states whose per student appropriations declined more than 25% during this period of time. There has been a 10% increase in tuition over the past ten years.

Council on Higher Education staff explained Kentucky's higher education funding model, developed over the past several months, as having five components: 1) formula calculation; 2) funding objective; 3) appropriation distribution system; 4) performance measures; and 5) presentation.

Kentucky's formula calculation has been in use since 1982 and has been reviewed twice since then. The funding formula serves as a starting point for developing a statement of need for each institution. The formula does this in two ways: 1) benchmark data from other states are used to develop the support rates used in the funding formula; and 2) actual Kentucky data, such as enrollment, program mix, and size of physical plant, are used to calculate the level of funding need for each of the institutions.

The funding formula is composed of 22 separate components. It takes into consideration: mission differentiation among the institutions; differences in level of instruction; and differences in type of program and program mix among the institutions. It also recognizes the size and complexity of the institutions. Beyond these quantitative calculations, the formula recognizes legislative program mandates. Sixty percent of the

dollar amount for each institution from the formula calculation is driven by enrollment. The formula also includes 36 mandated program items.

All of the SREB states use formulas to develop funding requests, to make funding recommendations or to determine and distribute final appropriations among the institutions. In the 1950's, formulas were primarily used to determine adequate levels of funding for public higher education systems. Growth in student enrollment had to be considered in the 1960s. In the 1970s formulas were revised to include funding equity among institutions. It was only during the current decade that program mix and factors based on institutional missions were taken into consideration. Kentucky's new funding model has elements that further each one of the objectives of adequacy, growth, equity, stability, quality, accountability and reform.

Historically, higher education funding requests have been unachievable. The funding target for the 1996-98 biennium is to fund the institutions at the level institutions are actually funded in other states. The appropriation distribution system, the method for building institutional requests, begins with the base appropriation for each institution and is then adjusted for contractual obligations and inflationary or current services increases. The remaining increase will be in two pools: one to address equity increases and the second to reward performance.

Using the 1995-96 appropriation base of \$700 million, the total calculated for inflation would be \$18 to \$20 million annually. The increase to meet the funding objective over a two-year period would be \$35 million annually. The total annual increase necessary is estimated to be between \$53 to \$55 million for the state appropriation each year of the next biennium, approximately a 7.5% total annual increase for higher education.

### **Capital Construction**

There is currently \$1.9 billion invested in higher education facilities in the state. Almost 60% of higher education buildings are more than 25 years old and require maintenance. Increased demand for higher education increases the need for facilities. The increased use of new technologies creates a whole new set of issues related to equipment and facilities needs. Complying with federal regulations that are necessary but very expensive is also a difficult issue.

The Council on Higher Education prepares a six-year capital needs plan that is tied to strategic and campus master plans, as well as to information on resource plans that include computing and telecommunication equipment. Systemwide capital needs are determined by consulting with an architect, conducting biennial campus visits, identifying critical needs, and justifying institutional requests.

The Council has identified five capital construction priorities: life/safety projects; protecting the investments in the plants; infrastructure projects; major equipment projects; and new facilities. The six-year capital plan identifies a need of \$155 million for life/safety

projects from all sources of funding. Deferred routine and major maintenance is also a high priority that over time gets worse and results in higher repair costs. The most recent plan presented to the Capital Planning Advisory Board proposes that deferred maintenance be funded by a bond pool approach. Given the critical maintenance problems on all campuses, facilities maintenance has been included as one of the 27 measures in the performance funding requirements for 1994-96.

Efforts to improve capital planning and construction processes were made during reviews in 1990 and again this summer. Efforts were also made to address adequate oversight of capital projects and to address emerging issues where no procedures existed. The Vice-Chairman said the hallmark is that there will be earlier and more complete sharing of information among the institutions, the Council and other involved state agencies.

### **Institutional Management**

The convener of the University Business Affairs Group addressed the Task Force to share some of the ways that business administrators have had to become more creative as a result of institutional budget cuts. There are seven major groupings of activities related to university business operations: financial management; personnel administration; physical plant; business services; campus safety and security; environmental health and safety; and information technology. The budget cuts resulting from state revenue shortfalls, unfunded mandates, regulatory complexity, and competition for resources affect the operations of the institutions and place a tremendous financial burden on universities. These factors have resulted in pressures to operate the universities more efficiently and effectively.

Campus-based initiatives include: 1) reinventing university business operations: business process redesign, streamlining, value-added analysis, total quality management, and use of technology; 2) contracting for food services, bookstores, housing, mail room management, and physical plant management; and 3) providing services in-house. The business officers are responsible for providing support services needed to fulfill the universities' respective missions. A wide range of management options should be maintained, in order to best serve the needs of each institution. Flexibility is essential to effective functioning in the current economic environment.

Statewide initiatives undertaken by the University Business Affairs Group include: sharing information and ideas, joint problem-solving, purchasing contracts, training programs, and a common approach to regulations.

## **How Kentucky Ranks**

A representative of the Southern Regional Education Board (SREB) shared SREB information on how Kentucky ranks among the other states in the region in financing its colleges and universities. For over forty years, the SREB has been following the condition of higher education with a major annual survey called the "SREB State Data Exchange." Every two years, SREB reviews its information, as well as information from other national and regional surveys, to determine the overall condition of public colleges and universities.

SREB has observed certain trends that affect the condition of higher education. Financing for public colleges and universities around the region and nation is changing. Over the last ten years, the priority of higher education has fallen in most state budgets and the costs are shifting to students and their families.

The southern states, including Kentucky, slightly exceeded the United States as a whole in the percent increase in state and local tax revenues. At the same time, Kentucky increased higher education funding much less than its neighbors and the country and actually decreased the amount of state and local general funds for this purpose. Although the source for Kentucky's greatest growth in funds for higher education was tuition revenues, that growth was significantly lower than the increases found in the SREB states and all fifty states. Kentucky's slight increase in funding for colleges and universities is compounded by having to serve more students, a thirty-one percent increase in enrollment. The states' percentage of enrollment growth exceeded the growth found in the other southern states and the United States' average.

Over the last ten years, there have been major changes in funding for colleges and universities around the region. Kentucky is part of the pattern of trends and in most instances its changes are reflective of what is going on in the region and around the nation. Compared to the regional and national results, some of the trends in Kentucky show some of the greater declines over the last ten years.

## **Student Accessibility**

The Task Force members heard testimony from five students who shared their concerns and suggestions for improving higher education with the members. Students' concerns focused on four major areas: tuition and financial assistance, course availability, remedial education, and minority recruitment.

### **Tuition/Financial Assistance**

Students believe they are increasingly absorbing the costs of higher education, as state funding decreases and tuition increases. A direct result is that students are having to fund their college experience by incurring more debt and thereby mortgaging their future. One student explained that with rising costs of tuition, housing and personal costs, some students are unable to pay for their textbooks until their checks for loans and grants are received, which in some cases is several weeks after classes begin. Those students are

placed at a serious disadvantage, sometimes making it difficult for them to keep up with their work.

The Task Force heard comments that as tuition has increased, class course availability has decreased. Students complained about tuition increases because they see little if anything in return. They want to know how money is being used. One suggested that more open communication with students about college funding would help this situation. Another student echoed this sentiment when he said that it is important that students have ownership in tuition-setting policies.

### **Course Availability**

Students also have concerns about course availability. Since many students need to work to meet the costs of tuition, textbooks, room and board, and food, it is very difficult for students to schedule classes that are only offered one day a week. One student suggested having more offerings of the same course each semester, so students do not need to wait an extra semester for that one required course. This same student also related to the Task Force his need for an organic chemistry course for his major; the course was not offered at his institution, so he needed to transfer to another institution for this one course.

Another student said she is presently a full-time student majoring in education and that it will take her six years to graduate because of the low class selection at her university. She said that students who are required to work more than 30 hours per week must stay in school longer because they are not able to carry heavy class loads. Students should be able to graduate in four or five years, she said.

### **Remedial Education**

A typical view of remedial education is that it is a costly program for students who may not be "college material." While remedial education is oftentimes frowned upon, it helps students correct academic deficiencies and learn basic skills that enable them to move through the college experience. There are honor students who have completed the pre-college curriculum with good grades but who need remedial education because the level of reading and math they had in high school was too low.

Another student recounted how, as a high school senior, she scored 14 on the ACT test, and she recently repeated the ACT and scored 27. She said that without specialized attention she could not have achieved what she has and that she is totally sold on the quality education offered by Kentucky's community colleges, including their remedial program.

It was also suggested that there be more collaboration between the high school and the university, in order to reduce the need for remedial education. The student replied that if students are lacking basic skills in high school, they will not be prepared for some of the college courses. Students should not be turned away from college because they lack a certain basic skill, she said.

### **Other Student Concerns**

The large number of non-traditional students in higher education generates the need for more childcare. One student government association offers three \$350 child care grants per semester, but has received over fifty applications for those grants.

Another concern related to minority recruitment and retention. Minority recruitment is stressed at all the colleges and universities in Kentucky, noted a student. This results in an influx of minority students being brought into higher education; however, those students are not being retained and are not graduating. More successful ways to recruit and retain those students are necessary.

### **Collaboration and Partnerships Between Elementary and Secondary Education and the Colleges and Universities**

The Executive Director of the Kentucky Institute for Education Research discussed the fact that reforming the elementary and secondary schools has changed the expectations of higher education. There are many new educational processes that teachers and school administrators must understand and experience as they go through their university preparation program. In addition, the institutions must be prepared to enroll and challenge students who have been educated in the reformed schools.

While the universities have reported on their programs, practices and activities related to elementary and secondary education, there is little hard data to indicate the extent and quality of the activities. An on-site study of university activities using instruments that provide comparable data on the quality and quantity of activities focused on the new demands of the Kentucky Education Reform Act is needed. All stakeholders should be involved in a process to clarify the expectations of higher education and its relationship to elementary and secondary education.

The Associate Dean for Academic Programs of the University of Louisville described some of the collaborative efforts U of L is making with elementary and secondary education. Among recent changes is the redesign of the School of Education's teacher preparation programs as a Master of Arts in Teaching (MAT) program. All teachers will enter teaching with a solid foundation in the subject content and can complete the program with one year of professional experience in K-12 professional development school sites. She also described a pilot project at U of L that uses writing portfolios for admission to the university and to help make student placements in appropriate freshman English sections.

U of L is trying to transform teaching to be more student-centered, more experiential, and more community-related in the ways that students have come to expect. There is an instructional quality enhancement lab that helps faculty with technology skills. U of L highlights active teaching and instructional innovations through minigrants, showcases, faculty forums and through conversations to share information with other

faculty. The Rhetoric Composition Program is a collaborative effort with the Kentucky Department of Education and Jefferson County Public Schools, to bring talented high school English teachers to campus for a year to help the freshman composition instructors.

The faculty members at U of L see their mission as providing service to schools along with their professional development efforts. U of L can be a facilitator by putting people in touch with resources, by connecting people with other faculty across the state, and by conducting summer institutes.

The Dean of Thomas More College discussed the Council of Partners in Education that was formed two years ago to close the transitional gap between high schools and colleges. The Council includes elementary and secondary school superintendents, vocational school representatives, members of the Council on Higher Education, and representatives of the Family Nurturing Center of Kentucky. The group began visiting classrooms in elementary schools and high schools and had follow up visits in classes at the colleges. He also described the Education Awareness Week sponsored by the Council of Partners and the Prichard Committee in Northern Kentucky, which he said was an exciting opportunity for people representing all elements of the educational sectors to discuss concerns, similarities, and ways to continue collaboration.

### **Higher Education Governance**

A consultant from the National Center for Higher Education Management Systems addressed the Task Force on the changing structure of state higher education leadership. He told members that in deciding whether to reorganize the current governance structure for higher education, they should distinguish between state interests and institutional interests and between state and system leadership and institutional governance. He said that when states look at the total policy process, they recognize there is no perfect solution.

There are a variety of differences in states that affect governance structures, such as population, strength of organized labor, the roles and strength of the governor and the legislature, the way that general government functions, the extent to which the state uses nonpublic entities to carry out functions, and the relative proportion of the population enrolled in public institutions. He stressed that the major variable in controversies related to higher education governance bears no relationship to higher education. Higher education is the most visible symbol of regional pride and strength because of the significant geographic differences among states. The real question is the shift in political balance in the states, and the states with the most centralized governance structure tend to be the ones with the greatest geographic imbalance. Those states have used centralization in governance as a way to counter the disparities in and among the regions.

A number of classification systems have been developed since the 1960s to describe the variations in state governance structures. They are described as consolidated boards, coordinating boards, and planning agencies.

Kentucky is in the middle of the range of governance structures. He said that during the 1980s a pattern evolved in the characteristics of state coordinating bodies. Coordinating bodies are placing more emphasis on setting statewide policy agendas, on being a change agent rather than a passive coordinating entity, on using the budget process to affect change, using competitive incentive and performance funding, and on performance oriented accountability.

As structures have changed, the issues remain similar across states and tend to be triggers for discussions about governance. Common triggers are: concerns about actual and potential duplication of high cost graduate and professional programs; conflict between aspirations of two institutions, often under separate governing boards, located in the same geographic area; legislative reaction to institutional lobbying; frustrations with barriers to student transfer and articulation; proposals to close or merge colleges or universities, or to change institutional missions; and concerns about the effectiveness of the system as a whole.

New issues that are forcing change include: demand, resources, productivity, decrease in state revenue going to higher education, political instability, downsizing government, other priorities, and the widening gap between internal priorities of faculty and public expectations. The consultant stressed asking the question whether the forces external to institutions are constructive and can be used to help faculties gain and provide incentives to be better connected.

New Jersey's higher education governance structure has been abolished and the responsibility for coordination has been delegated to a group of university presidents. The creation of a presidents' council gave them legal responsibility to make positive contributions to statewide planning. The presidents' council has significant responsibilities related to program review and coordination and getting the system to work effectively. They then created a panel of lay citizens to develop long-range plans. The final plan was created by the lay body without representation by institutional interests. The presidents' council is advisory, funded and staffed by the institutions.

In summary, the consultant stressed the need to effectively carry out both the role of the state and the role of higher education in meeting the public agenda. There is a need to think about a more flexible, responsive delivery system with more stable and long-term lay leadership. States need to focus on establishing the major state issues; define leadership roles and functions to accomplish the state goals; create incentives for institutional change; and create an infrastructure for expanding telecommunications.

## Higher Education Technology

The Dean of the Center for Continuing Education and Academic Outreach at Murray State University, and the Assistant Vice President of Finance and Administration at Western Kentucky University made a presentation on technology to the Task Force. The Dean said that no single event in 25 years of education experience has so dramatically altered teaching and learning as have emerging technologies. Computer technologies are creating whole new instructional and interactive paradigms that are having a major impact on education at all levels.

The Dean said that technology cannot solve all of the problems of higher education, but is the solution to access and access with excellence. Murray State University implemented distance learning because of the increasing demands for improved access to higher education across their service region. The philosophy of distance learning does not restrict effective learning to the traditional classroom; it contends that access to information is essential to learning and that technology can facilitate access to information.

The role of higher education in technology development has been as a partner and a leader in a number of efforts, including the KHEC Network, which links libraries and provides electronic mail and computer services to various campuses; the Information Highway, which is a major expansion of the initial effort and the state's efforts; with KET in the Telecommunications Consortium, which now enrolls 6,000 students per year in telecourses; the KTLN, which now includes all of the universities; and with the Kentucky Information Resource Management Commission and the Communications Advisory Council. Kentucky's distance learning technologies include: Kentucky Telelinking Network (KTLN), Kentucky Educational Television (KET), Campus Networking, and the Kentucky Information Highway. The KTLN is a joint collaborative initiative among Kentucky's universities that currently has over 60 full-duplex sites, which include audio and video capability and networked multimedia workstations for dataconferencing, electronic mail and information access. \$16 million will have been invested in the KTLN by the end of this year. KTLN links the state's universities to elementary and secondary schools across the Commonwealth. KET is another distance learning resource, providing coursework directly to homes. The Kentucky Information Highway is a public and private partnership that will greatly expand the ability to access information. It will help control cost and provide a way to integrate the various existing networks with technologies deployed across the state, while linking Kentucky with worldwide information resources.

The Dean made the following suggestions to the Task Force: (1) ensure that every student at every level of the educational system has access to worldwide information technology; (2) have every county and every school district be a player in the KTLN; (3) recognize the importance and unique contributions of all technologies and the value of integrating those technologies to maximally enhance education; (4) ensure that public policy decisions are related to the technology factor in the needs and interests of education, as well as those of industry and the private sector; (5) develop mechanisms

which will encourage and reward innovation and collaboration; and (6) include educational technology in the funding priorities.

The Vice-President urged the Task Force to recognize and promote the importance of information technology in higher education and to underscore its legitimacy. Delivering coursework by interactive television is in some cases a preferred means of delivering higher education; its students are doing as well as or better than the students on campus. He suggested requiring all students to demonstrate some technology skills upon graduation. He also suggested offering incentives and rewards to higher education to provide the same kind of access to students as does the Kentucky Education Technology System (KETS).

### **Student Financial Assistance**

The Executive Director of the Kentucky Higher Education Assistance Authority, explained the various student financial assistance programs to members of the Task Force. During 1994-95, KHEAA processed 100,901 applications for federal student aid; 84,000 were processed in 1993-94; and 72,000 in 1992-93. He told members that the state programs are severely underfunded and that students are relying more heavily on borrowed funds.

The College Access Program (CAP) is Kentucky's largest grant program, available to students at 86 eligible institutions. The award amount is tied to the community college tuition rate (currently \$490 per semester) for college and university students; for vocational and proprietary students, it is tied to the cost of the state vocational-technical institutions and ranges from \$100 to \$150 per quarter. In 1994-95, KHEAA denied 43% of the eligible applicants for CAP grants because of a lack of funds. The Authority estimates that an additional \$20 million is needed to fully fund all of the eligible students expected to apply in the next biennium.

The Kentucky Tuition Grant program (KTG) is for students attending any of the twenty-one Kentucky independent nonprofit Southern Association accredited institutions. The maximum KTG award is \$1,500 per year. Since students are also eligible for the CAP grant program, this allows them a maximum grant assistance of \$2,480.

Two special purpose programs are the Teacher Scholarship Program and the Work-Study Program. Under the Teacher Scholarship program, students can receive a maximum award of \$5,000 if they agree to teach in Kentucky upon graduation; if they do not teach in Kentucky, they must repay the award at 12% annual interest. Under the Work-Study program, \$2 of KHEAA agency funds are used to pay the hourly wages for student employees. The employers pay the difference in these wages, which are at least minimum wage level. Work-study participation for 1994-95 included 596 predominantly private employers and 18 educational institutions.

The Federal Family Education Loan Program (FFELP) is another program administered by KHEAA. Currently, 134 banks, savings and loans, credit unions and other private capital providers participate. KHEAA ensures those lenders will be repaid and the U.S. Department of Education regulates and reinsures the program for the state. For 1994-95 they processed 83,370 loans, valued at \$251,724,900. There are several types of loans within this program, including Stafford Loans (both subsidized and unsubsidized), the PLUS loan program, and the federal consolidation loan program.

Other KHEAA programs include the Kentucky Educational Savings Plan Trust program, under which participants save monthly for the future educational costs for their child. Outreach activities include the Success Through Education Planning (STEP) program, which sends students information about higher education planning and financial aid, and a program known as Hope, Opportunity, and Progress through Education (HOPE), which employs college students to work with low income and minority students and take them to visit campuses, and to make appearances at civic clubs and churches, in an effort to encourage them to enroll in higher education.

### **Task Force Recommendations**

1. Whereas it is vital to the future economic interests of Kentucky to cultivate a flexible, well-trained, and highly educated work-force, and whereas the economic and social well-being of every man, woman, and child in the Commonwealth is directly dependent upon their ability to receive a quality college education, we, the members of this Task Force on Higher Education, call upon the Governor and General Assembly of the state of Kentucky to immediately reverse the 20-year trend of declining funding percentages to the Commonwealth's system of colleges and universities.

This effort should begin with the budgetary inclusion and adoption of the Council on Higher Education's recommendation that funds appropriated for Kentucky's public universities and community colleges be increased 8.4% in fiscal 1996/97 and 9.8% in fiscal 1997/98.

The Governor and General Assembly should further maintain funding for higher education in following years at such levels that will make Kentucky competitive with other states across the region and will address the many academic, financial, and social needs of the Commonwealth's rapidly growing number of college students.

2. The rehabilitation of Kentucky's university infrastructure is a critical issue. The General Assembly should allocate an amount of money to cover the institutions' deferred maintenance, as described in the 1996-98 Capital Projects Recommendation adopted by the Council on Higher Education November 13, 1995.
3. The Council on Higher Education should remain the coordinating board for Kentucky's system of higher education. However, the Council should exercise its

existing authority in a more aggressive and timely manner, as envisioned by the General Assembly when the Council was established. The Council on Higher Education already possesses adequate statutory authority to influence and control the direction of higher education in the Commonwealth. Three examples of statutes conferring broad and significant powers to the Council follow:

- KRS 164.020(4) requires the Council to "devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the Legislature for use in making appropriations for the institutions of higher learning."
- Additionally, KRS 164.020(5) requires the Council to "review and approve all capital construction projects the cost of which exceeds four hundred thousand dollars (\$400,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of the projects to the Finance and Administration Cabinet or the State Property and Buildings Commission."
- KRS 164.020(8) requires the Council to "define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions."

The General Assembly should also consider writing a statement of legislative intent as to the duties and responsibilities of the Council on Higher Education.

4. The institutional reporting required by Senate Bill 109 and the implementation of performance funding should be continued, in order to ensure productivity, efficiency, and accountability to the public from higher education. Institutions should continue to interview employers of the institution's graduates; evaluate student preparation for graduate school; and measure progress achieved with nontraditional students. Accountability reports should use a small number of accountability measures and should target the specific elements of interest to the legislature, in order to reduce current paperwork and expenses associated with the reporting requirements.

Additionally, institutions should better communicate their effectiveness and emphasize their achievements and positive contributions to the citizenry.

5. The Council on Higher Education should be more diligent in using its authority to require coordination of programs and cooperation among community colleges and universities, to avoid and eliminate needless duplication.
6. To enhance cooperation between universities and vocational schools, so that students have access to quality programs that meet their individual needs and prepare them for their life's work, it is recommended that a study of the feasibility of combining the functions, roles, and structures of vocational-technical education and the community

colleges, as well as their interface with four-year universities, be conducted. During the course of the study, different states' models should be examined, to identify a feasible approach to this problem. This Task Force should include representatives of the General Assembly, higher education, community colleges, and vocational-technical education.

7. To encourage students to stay in school and complete their degree programs in a timely manner, the General Assembly, the Council on Higher Education, and Kentucky's public institutions of higher learning should make every effort to ease the growing financial burdens of attaining a college education by keeping tuition at the lowest possible levels and fully supporting quality academic and student support services. Recognizing that much of the financial aid available to students derives from the federal government, the General Assembly should petition Congress, Kentucky's Congressional Delegation in particular, to support and maintain federal grant and student loan programs at adequate levels to address students' diverse financial needs.

In the event of significant cuts in federally-funded programs, the Kentucky Higher Education Assistance Authority should review possible ways of making more state grant money available to students and should begin immediately to formulate initiatives for off-setting any decline in the available federal dollars.

A clear relationship between higher education (and getting a degree) and one's future success (both financial and employment success) should be established, to motivate students to stay in school and complete their degree programs in a more timely manner.

8. A better model for counseling and mentoring Kentucky students is needed. Front-line faculty should and must become more involved in counseling and advising students. Kentucky's colleges and universities should incorporate mentoring and counseling into promotion, tenure and merit pay processes and decisions.

Additionally, the General Assembly should consider incorporating the mentoring and counseling function into the existing requirements for the acquisition of performance-based funding.

Colleges and universities should become more "user friendly" by providing clearer academic tracks for students to follow, so they know the courses they need to take at each point in their college career. Every effort should be made to coordinate general education requirements across the spectrum of state educational institutions, in order to reduce conflicts and the unnecessary repetition of courses upon transfer from one school to another.

Amendments to the Family Educational Rights and Privacy Act (FERPA) are recommended, so that institutions can more easily communicate with and enlist the support of parents, especially since they are usually the ones paying the bills.

9. In order to entice a larger percentage of Kentucky's young people to successfully complete high school and enter college, Kentucky colleges and universities should form partnerships with primary and secondary instructors and economic leaders to encourage students to set higher goals as early as the elementary school level, and the economic and social advantages of higher education should be emphasized. Local school districts, in concert with institutions of higher learning, should provide outreach information to parents and students as early as the middle school grades. School districts should increase the emphasis at the secondary level on the need for adequate preparation for college study.
10. To ensure that Kentucky becomes a national leader in the use and teaching of technology applications and theory, and to continue the technological advances made in Kentucky under the Reform Act, the General Assembly should fund the infrastructure needed to equip colleges and universities with the necessary technology to build on the technology system available in elementary and secondary schools. This funding should include funding for professional development in the use of the technology for faculty and staff and should be in addition to dollars already allotted for higher education. A high level of professional development and on-going technology training for college and university faculty and staff should also become a factor used in formulating the rewards and sanctions under Kentucky's accountability funding system.
11. To foster better cooperation and interaction between the universities and public schools, and to restructure teacher preparation programs to better reflect the goals of the Kentucky Education Reform Act, the General Assembly should adopt a resolution encouraging college and university presidents to meet on a regular basis with the Commissioner of Education to develop a consultative, on-going dialogue on the Kentucky Education Reform Act. Additionally, faculty should be provided with the time and resources to interact with public school teachers in their classrooms. A competitive fund should be established to encourage this interaction.

Additionally, Kentucky should develop and coordinate statewide services to public schools through the Kentucky TeleLinking Network (KTLN) by:

- Providing professional growth through the universities, KET, KTLN, and KETS electronic mail;
- Providing a university electronic mail help desk to address public school requests for information for successful teaching techniques; and
- Promoting course sharing through interactive television.

12. Every effort should be made to reduce the burden of mandates, so those costs can be redirected to academic programs. The Council on Higher Education should review state and federal statutes and regulations and make recommendations to the General Assembly on areas that can be eliminated or streamlined to provide more efficiency.

**REPORT OF THE 1994-95  
COMMISSION ON POVERTY**

**Senator Gerald Neal, Co-Chair  
Representative Freed Curd, Co-Chair**

Sen. Walter Blevins, Jr.	Lelar Barney
Rep. Tom Burch	Laurie Bowman
Rep. Jesse Crenshaw	Pat Earles
Rep. Ernest Fletcher	Arnold Gaither
Rep. Paul mason	Eula Hall
Sen. Joey Pendleton	Rosalind Harris
Sen. Dick Roeding	Ronald Lee Logsdon
Sen. Dan Seum	Stella Marshall
Rep. Arnold Simpson	Judy Martin
	Dan Petronio
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**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## COMMISSION ON POVERTY

JURISDICTION: Senate Concurrent Resolution 74, enacted by the 94 Regular Session of the General Assembly, directed the Commission to:

1. Develop a thorough description of the characteristics of Kentucky's poor;
2. Investigate the particular causes of poverty in various areas of the state and among various categories of the poor;
3. Focus attention on the causes of poverty rather than on its effects, except as those effects contribute to a cycle of poverty;
4. Evaluate the ability of existing poverty and development programs to mitigate the causes of poverty in the identified areas and among the identified categories of the poor; and
5. Recommend improvements in any state programs which could mitigate the causes of poverty with an aim toward making them more integrated with each other and more responsive to local conditions.

The membership of the Commission, made up of eleven legislative and eleven at-large members, was appointed by the Speaker of the House of Representatives and the President of the Senate, as directed by the resolution.

### Background

During the decade from 1980 to 1990, the number of Kentuckians living in poverty increased, both in absolute terms and as a percentage of the state's population. Today, one in every five of the Commonwealth's citizens lives in poverty, one in every four children in Kentucky lives in poverty, and one in every three African Americans in Kentucky lives in poverty. No geographic area is immune from this social disorder: poverty rates range from 15 percent of the population living on farms, to 16 percent of urban residents, to 22 percent of those living in rural communities.

These distressing conditions exist despite the fact that Kentucky's per capita personal income has grown faster than the national average in all but one of the last seven years, despite the fact that Kentucky ranked sixth among all of the states in the increase in personal income from 1982-1992, and despite the fact that Kentucky's unemployment rate places it among the lower half of all the states. The number and condition of the Commonwealth's poor continue to worsen, even though Kentucky ranks nineteenth among the states in the number of institutions of higher education, has been cited as having one of the most attractive economic development programs in the nation, and ranks fifth among the states in state and local expenditures for public welfare per \$1,000 of personal income.

It was the recognition of a growing disparity in income levels among the citizens of the Commonwealth that prompted the General Assembly to create the Commission on Poverty.

### COMMISSION ACTIVITY

The Commission met ten times in general session; the first meeting was held on November 2, 1994, and the tenth meeting on September 1, 1995. Testimony was taken from academicians; state program administrators; directors of private, nonprofit organizations working with the poor; and other practitioners in the field of poverty. The Commission also held three public hearings, in Whitesburg, Louisville, and Covington, Kentucky, at which the poor, near poor, and formerly poor were heard from, in addition to state and private practitioners from the immediate area.

The initial meeting of the Commission saw the development of a mission statement, pledging the activities of the Commission to:

1. Identify and record the incidence of poverty in Kentucky;
2. Develop a description of the poor and the communities in which they live;
3. Determine the causes of poverty, and distinguish among those causes, as they differ by geographic region and categories of the poor;
4. Evaluate the ability of existing Kentucky programs to mitigate the causes of poverty;
5. Identify and examine other states' programs which have been successful in addressing the causes of poverty;
6. Recommend changes in existing state programs, or the creation of new programs, to improve responsiveness to the needs of the poor and to increase the rate of success in eliminating sources of poverty; and
7. Report the findings of the Commission to the Legislative Research Commission on a timely basis for action by the 1996 Session of the General Assembly.

The second and third meetings of the Commission were devoted to developing demographic and background information regarding the incidence and character of poverty in Kentucky. Other early meetings of the Commission focused on the outreach programs of private, public nonprofit and local government poverty-related organizations, including the Christian Appalachian Project; The Family Matters Program, Points of Light Foundation, Whitley County Communities for Children; Hager Foundation; Homemaker and Single Parent Career Development Program, Prestonsburg Community College; Kentucky Commission on Children and Families; The Kentucky Home Place Project, University of Kentucky; Kentucky Youth Advocates; The Neighborhood Place, Jefferson

County Department for Human Services; New Opportunities School for Women, Berea College; Office of Kentucky Legal Service Programs; and Resource Mother Program, Lexington/Fayette County Health Department. The Commission also conducted an audio conference call with officials of the Oregon Commission on Children and Families to discuss that state's recently-created program which established Commissions on Children and Families in each of the state's counties, charged the local commissions with planning for the wellness of children, and required the commissions to provide services to the children and their families in the county.

The latter half of the Commission's schedule was devoted to reviewing programs administered by state agencies which affect the poor or near poor. The Commission received testimony from representatives of the:

1. Cabinet for Economic Development, including the Bluegrass State Skills Corporation;
2. Department for Social Insurance and Department for Social Services, Cabinet for Human Resources;
3. Council on Higher Education;
4. Division of Program Resources, Division of Secondary Vocational Education, and Office of Special Instructional Service, Department of Education;
5. Higher Education Assistance Authority;
6. System of public universities; and
7. Department for Adult Education and Literacy, Department for Technical Education, Office for Policies, Budget and Personnel, Office of School-to-Work, and Office of Training and Employment, Workforce Development Cabinet.

### **Commission Findings**

The demographic data collected by the Commission, the majority of which was compiled specifically for the Commission by the Legislative Research Commission's staff economists, with other significant contributions by the Kentucky State Data Center, lead to a number of "findings." Among the more significant findings were:

1. While the counties with the highest poverty rates are concentrated in eastern Kentucky, the counties with the largest numbers of poor people are in urban areas.
2. Targeting assistance to counties with the highest poverty rates draws assistance away from the counties where most poor people live.

3. The greatest difference between adults living with children who are in poverty and adults living with children who are not in poverty is their work status.
4. Only one-fourth of the adults living with children in poverty reported receiving any income from public assistance.
5. While the majority of adults with children in poverty live in rural areas, the majority of the poor children themselves live in urban areas.
6. Over half of poor children live in families with incomes of 50 percent of poverty and below.
7. Forty-eight percent of all Kentucky children live in families with incomes of 200 percent of poverty and below.
8. The overall conclusion is that having a job is the most important characteristic of an adult that correlates with whether a family lives in poverty.

The demographic data also allowed the Commission to refute a number of myths regarding the poor and poverty, including:

**Myth:** The poor are the same everywhere in Kentucky and have the same problems.

**Fact:** The characteristics of the poor vary among regions of the state.

**Myth:** Being poor is totally a function of characteristics which individuals can change.

**Fact:** Research indicates that poverty is strongly associated with characteristics, such as race, gender, and age, that individuals cannot change.

**Myth:** Poverty programs are only those which give direct assistance to the poor.

**Fact:** Other types of state programs, such as those which target economic development efforts, those which reduce the effects of poverty on children, those which affect the allocation rules of jobs and income on the basis of characteristics which individuals cannot change (race, gender, and age), and those which attempt to address problems associated with poverty (such as crime and substance abuse) can also be categorized as antipoverty programs.

**Myth:** Adding jobs in a community will certainly help the poor individuals in that community.

**Fact:** While the addition of jobs in a community may act to reduce the community's poverty rate, it is not necessarily true that the addition of jobs will likewise reduce the number of impoverished persons in that community.

- Myth:** Most poor families are poor because they have many children.
- Fact:** Nearly 70 percent of adults living with poor children live in families with one or two children and 90 percent live in families with three or fewer children. Thus, large families account for a very small percentage of the number of poor families in Kentucky.
- Myth:** Most poor children live with only one parent.
- Fact:** Over half (51%) of poor children live in married-couple families. This is significantly less, however, than the proportion of nonpoor children (87%).
- Myth:** Most poor children are rural.
- Fact:** Nearly 60 percent of poor children are urban.
- Myth:** Most poor people are on welfare.
- Fact:** Only one fourth of the adults living with children in poverty reported receiving any income from public assistance, according to the 1990 Census.
- Myth:** In all family situations, the adult poor are more likely to be women than men.
- Fact:** Poor adults without children are no more likely to be women than men. In contrast, 61 percent of the poor adults with children are women.
- Myth:** There are many working poor.
- Fact:** Only 33,000, or 6 percent, of adults who work more than 75 percent of full-time annual hours live in families with incomes below the poverty level.
- Myth:** The county-level poverty rate is an adequate measure of poverty in Kentucky.
- Fact:** The county-level poverty rate tends to highlight areas which have a relatively large proportion of an often relatively small population living in poverty. Use of the poverty rate as the sole measure of poverty implicitly assumes that the poor who live among other poor are of greater interest than the poor who live in the midst of relative affluence.
- Myth:** Poverty in Kentucky mostly occurs in eastern Kentucky.
- Fact:** If the number of poor in each county is considered, then it is clear that the greatest number of poor Kentuckians are found in the urban counties, particularly Jefferson, Fayette, Boone, Kenton, and Campbell Counties. At the sub-county (or block-group) level, small areas of concentrated poverty exist throughout the state. A measure of poverty which reflects both the poverty rate and the number of poor in small areas indicates that Jefferson and Fayette Counties combined account for the same number of block groups with an overrepresentation of at least 400 people in poverty as do all of the counties of eastern Kentucky combined.

## Commission Recommended Actions

In its report to the General Assembly, the Commission will recommend more than 50 specific actions by the General Assembly or the Executive Branch, affecting poverty mitigating programs administered by the Cabinets for Economic Development and Human Resources, the Council on Higher Education, the Department of Education, the Higher Education Assistance Authority, the system of public universities, and the Workforce Development Cabinet. The more significant recommendations will include:

1. That the General Assembly enact legislation requiring the forfeiture of professional licenses by delinquent payers of child support.
2. That the General Assembly direct the Administrative Office of the Courts to annually publish data fully disclosing the disposition of child support cases in each of the state's district and circuit courts, with copies to the Governor, Legislative Research Commission and Kentucky Commission on Women.
3. That the General Assembly enact legislation to create a tax credit or a grant for employers who provide child care services for dependents of their employees.
4. That the General Assembly direct the Office of Employee Benefits to develop a campaign to "market" the child care expense reimbursement program and the advantages of employer assisted child care.
5. That the Cabinet for Human Resources require all parents, other than the severely physically and mentally handicapped, who receive some form of public assistance other than AFDC to undergo instruction in parenting and life skills.
6. That the General Assembly develop and fund a program to provide grants to public transportation companies, including regional rural systems operated by nonprofit organizations, such as Community Action Agencies, or to local units of government, including area development districts, to survey the transportation needs of their citizen clients to places of work or education, and to develop routes and schedules to meet those needs.
7. That the General Assembly adjust the state's low-income tax credit schedule to ease the burden on Kentucky's most vulnerable families. Specifically, a full tax credit should be granted to families with incomes of \$7,500 or less, a 50-percent credit to families with incomes less than \$15,000, a 25-percent credit to families with incomes less than \$20,000, a 15-percent credit to families with incomes less than \$25,000, and a 5-percent credit to families with incomes less than \$30,000.
8. That the Standard of Need for Kentucky's AFDC program be raised to the federal poverty level for each family (size) unit.

9. That Kentucky seek a federal waiver to raise the permitted resource limit for self-employed AFDC recipients to help meet the capital requirements of a new business.
10. That the Department for Adult Education and Literacy develop and implement an effective outreach program to market its services to the impoverished, particularly those who receive some sort of public assistance other than AFDC, and to parents who are under court or administrative order to pay child support.
11. That the Cabinet for Human Resources evaluate the substance abuse treatment options available to JOBS participants and evaluate the success rate of long-term substance abuse treatment programs offered by private, nonprofit agencies, versus the rate of success of the more traditional short-term treatment programs provided by hospitals.
12. That the termination of child care benefits through Kentucky's transitional program be tied to an income level equal to the poverty threshold.
13. That the Commonwealth maintain its current level of support for poverty-related categorical programs, including AFDC and Medicaid, in the event that the state is allowed funding discretion through a block grant.
14. That the responsibility for the development of state policy concerning the allocation and administration of block grants be placed in the Office of the Governor.
15. That the Kentucky Industrial Development Act (KIDA) and the Kentucky Jobs Development Act (KJDA) be amended to provide an incentive for the qualified business to hire a full-time equivalent of 25 percent of its employees from a targeted workforce. The targeted workforce would be made up of Kentucky residents who were unemployed, or who had received public assistance, for at least 90 days prior to being employed by the business.
16. That the Kentucky Industrial Revitalization Act (KIRA) be amended to provide an incentive for the qualified business to hire a full-time equivalent of 25 percent of new or additional employees from a targeted workforce.
17. That the Kentucky Rural Economic Development Act (KREDA) be amended to require qualified business to hire a full-time equivalent of 25 percent of new or additional employees from a targeted workforce, as a requisite for participation in the program.
18. That the various statutes and administrative regulations governing the award of loans and grants for economic development purposes, and the statutes and administrative regulations authorizing the issuance of bonds to finance economic development loans and grants be amended to add to the project selection and lending criteria (a) the number of jobs to be filled from the ranks of public assistance recipients or

unemployed; (b) the level of wages to be paid; and (c) the employee benefits to be provided.

19. That the Kentucky General Assembly enact legislation to establish a viable, state-wide venture capital fund, with entrepreneur identification and technical assistance similar to that provided by the Kentucky Highlands Investment Corporation.
20. That the General Assembly authorize and fund an Office of Public-Private Partnerships to work with local, nonprofit organizations to identify local entrepreneurs, indigenous services and products, and to match venture capital with the prospective business venture.
21. That the General Assembly create a Task Force on Technology and Human Development to identify and recommend the means for developing a technology and workforce base which will attract state-of-the-art manufacturing and services industries.
22. That the current service levels of Kentucky's Head Start Program be maintained for every eligible child.
23. That the programs administered by the Department for Adult Education and Literacy receive full funding and that officials in this department strive to serve at least 25 percent of the functionally illiterate population in the Commonwealth.
24. That the General Assembly fully fund the free and reduced priced school breakfast and lunch programs and the summer lunch program.
25. That Kentucky provide adequate funding for adult education programs, such as literacy programs, life skills, community college education, vocational education, GED programs, and the JOBS program, in lieu of possible decreases in funding for education programs and funding in the form of block grants.
26. That local school systems provide or pay for the cost of child care services to students with children.
27. That secondary schools place emphasis on mentoring programs as part of the School-to-Work initiative being implemented by the Workforce Development Cabinet, including: the use of role models, teacher mentoring programs for education majors, occupation-specific mentoring, and the assignment of teachers to advise and support small groups of students within the school.
28. That the Kentucky Department of Education develop a mandatory survival skills course for all high school students, to be completed their senior year.

29. That the Commonwealth provide additional funding for the College Access Grant Program. Such funding would enable the Kentucky Higher Education Assistance Authority to expand the number of grants available for eligible undergraduate students.
  
30. That the General Assembly empower local communities to select and direct county services provided to children and families through the enactment of legislation mandating Oregon-style local Commissions on Children and Families in each county of the Commonwealth.



**REPORT OF THE 1994-95  
SPECIAL SUBCOMMITTEE ON  
STATUTES AND REGULATIONS PUBLICATION**

**Senator Walter Baker, Chair**

Sen. Jeffrey Green

Rep. Thomas Jensen

LRC STAFF: John Spangler and Robyn Kemper

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



## **SPECIAL SUBCOMMITTEE ON STATUTES AND REGULATIONS PUBLICATION**

**JURISDICTION:** This Subcommittee was created in June 1992 by the Legislative Research Commission to consider requests from outside the agency for use of LRC's electronic databases containing Kentucky's statutes and administrative regulations and to develop recommendations for a policy for responding to these requests. The Subcommittee was also asked to review the existing arrangements for the publication of the Kentucky Revised Statutes and the Kentucky Administrative Regulations Service and to make any recommendations to the Commission that it believes appropriate on this subject.

### **SUBCOMMITTEE ACTIVITY**

The Legislative Research Commission reconstituted the Subcommittee with its membership from the previous interim to resume its work during the 1994-95 legislative interim.

The Subcommittee met once during the 1994-95 interim. At that meeting, on June 17, 1994, the Subcommittee acted on a request by a trade association to reprint substantial portions of the Kentucky Administrative Regulations in a publication being prepared for the association's members and the public. It also established conditions upon which a favorable recommendation would be made on requests for designation as an official electronic version of the Kentucky Revised Statutes under KRS 7.138(1)(b), as amended by the 1994 Regular Session of the General Assembly, effective July 15, 1994.

Because of vacancies on the Subcommittee and multiple extraordinary sessions during 1994 and 1995, no further meetings were held during the interim. On November 1, 1995, the Legislative Research Commission approved an extension so that the Subcommittee could continue to meet through the end of the 1996 Regular Session, which will facilitate obtaining a quorum of the membership for meetings.

In addition to addressing pending requests for copyright authorization that fall outside of the existing "Policy on Release of LRC Database Materials for Certain Purposes," adopted by the Legislative Research Commission on the Subcommittee's recommendation, several other matters are possible areas for action. KRS 7.510 currently restricts release of the Commission's electronic statutory and administrative regulations databases to state agencies and political subdivisions of the Commonwealth under terms and conditions established by the Commission; amendment of this statute to permit making these materials available to the general public on the Internet or by other means may be considered. Unlike the administrative regulations, the Commission's internal electronic database is not the primary source for the official text of the statutes; the two publishers of official versions of the statutes maintain independent databases for their texts, which are proofed against the Commission's database. The Subcommittee may also make

recommendations on revision of this process through legislative changes to KRS Chapter 7.

The Subcommittee will not meet during the remainder of the interim but, as authorized by the Commission, will meet while the General Assembly sits for its 1996 Regular Session.

**REPORT OF THE 1994-95  
TOBACCO TASK FORCE**

**Senator Joey Pendleton, Chair  
Rep. Jim Bruce, Vice-Chair**

Sen. Fred Bradley  
Sen. Tom Buford  
Sen. Paul Herron, Jr.  
Sen. Virgil Moore  
Sen. Albert Robinson  
Rep. Royce Adams  
Rep. Woody Allen  
Rep. Ray Altman  
Rep. Adrian Arnold  
Rep. John Arnold, Jr.  
Rep. Sheldon Baugh  
Rep. Jeffrey Buis  
Rep. Denver Butler  
Rep. Jack Coleman  
Rep. Robert Damron

Rep. Mark Farrow  
Rep. Walter Gee  
Rep. James Gooch  
Rep. Drew Graham  
Rep. Jim Maggard  
Rep. Allen Maricle  
Rep. Harry Moberly  
Rep. Ramsey Morris  
Rep. Ray Mullinix  
Rep. Lonnie Napier  
Rep. Richie Sanders, Jr.  
Rep. John Stacy  
Rep. Richard Turner  
Rep. Pete Worthington

LRC STAFF: Andrew Cammack, Brooks Talley, Dan Risch, and Diana Hill

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



**SUBCOMMITTEE ORGANIZATION  
AND MEMBERSHIP**

**Subcommittee on Policy**

Rep. Drew Graham, Chair  
Rep. Royce Adams  
Sen. Tom Buford  
Rep. Robert Damron  
Rep. Jim Maggard  
Rep. Allen Maricle  
Rep. Harry Moberly  
Rep. John Stacy

**Subcommittee on  
Future Use**

Rep. Adrian Arnold, Chair  
Rep. Woody Allen  
Rep. Ray Altman  
Rep. Sheldon Baugh  
Rep. Jack Coleman  
Rep. Walter Gee  
Sen. Paul Herron, Jr.  
Rep. Ramsey Morris  
Rep. Ray Mullinix  
Rep. Richie Sanders, Jr.

**Subcommittee on  
Trends**

Rep. Pete Worthington, Chair  
Rep. John Arnold, Jr.  
Sen. Fred Bradley  
Rep. Jim Bruce  
Rep. Jeffrey Buis  
Rep. Mark Farrow  
Rep. James Gooch  
Sen. Virgil Moore  
Rep. Lonnie Napier  
Sen. Albert Robinson  
Rep. Richard Turner

## **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 met fourteen times during the 1994-95 interim. When the interim began, various reports and the news media suggested that tobacco production was likely to decline substantially in the near future. The Task Force did not agree with this assessment and was thus prompted to break into subcommittees and undertake its own look at the future of burley tobacco in Kentucky. The three subcommittees included the Policy Subcommittee, the Trends Subcommittee, and the Future Uses Subcommittee. The subcommittees each filed a report with the full Task Force. These subcommittee reports comprised the Task Force report on the Future of Burley Tobacco in Kentucky. The following summarizes the report and adds information on other important Task Force activities during the interim.

#### **Trends Subcommittee**

The Trends Subcommittee noted that cigarette consumption in the world is increasing -- doubling since 1964. Cigarette consumption in the United States is stable to possibly increasing. United States burley has lost a large share of the worldwide market, but United States production is stable. If the United States regained market share, production would go up dramatically.

The Trends Subcommittee report outlined the factors affecting the sale of United States burley, such as price, quality, trade policy, and government and industry assistance.

The Subcommittee looked at production leads and lags. Usage of United States burley is relatively stable, but production is more variable. Overproduction and buildup of pool stocks have led to quota reductions. Media reports have interpreted the reductions in quota as an indication that tobacco is going out of business. Subcommittee work indicated that production will be steady to increasing and that the quota cuts were caused by periodic overproduction. The Subcommittee based its prediction of steady future production on the fact that smoking is steady to increasing, and the percentage of young smokers is actually increasing.

The report noted that tobacco farmers are getting older. Fewer farmers will have to grow the tobacco to meet demand. This change will require larger farms and more use of migrant labor and machinery and could result in lower economic returns to local communities.

The Subcommittee concluded that tobacco in Kentucky has a good future, but unforeseen events could have a detrimental impact on production. Because of this, the Subcommittee felt that a disaster plan should be prepared, in case tobacco production should fall. The plan and possible legislation would use the state's economic and infrastructure development tools to focus on those areas heavily dependent on tobacco and broaden their economies. The Subcommittee met five times.

### **Policy Subcommittee**

The Policy Subcommittee met four times to examine policies and activities that affect burley tobacco in Kentucky. The Policy Subcommittee report includes policy discussions from the full Task Force meetings.

At their first meeting, Policy Subcommittee members heard a representative of the Department of Agriculture discuss the Department's program for the regulation of the sales of cigarettes to minors and placement of cigarette vending machines, as mandated by Senate Bill 316. The mandate originally came from the federal level and requires the state to have a law against underage use of tobacco products and to have an enforcement program in place, in order to qualify for drug prevention block grants.

Because of interest in economic development policies that affect tobacco farmers, at the April meeting, a representative of the Economic Development Cabinet appeared before the Task Force. The Cabinet is geared toward value-added production rather than working with the individual family farmer, but the Cabinet is concerned with the family farm. The Cabinet is working on a strategic plan for economic development and a number of legislators sit on tactic teams devoted to the effort. One of the tactic teams is concerned with extending incentives to family farms and with implementing Ag 2000 -- a plan to increase agricultural income in the state. This group is also looking at marketing, and is examining North Carolina's program.

The Cabinet representative noted that in developing Kentucky's agricultural potential, the state should play to its strengths and tobacco is our state's strength.

The Cabinet representative noted that a recent study identified 15 counties that would be significantly affected if tobacco quotas decline substantially. These counties fall within the Kentucky Rural Economic Development Authority (KREDA) program and some other programs the Cabinet is working with to help produce jobs and to supplement family income. To assist the tobacco dependent counties, the study recommends developing frameworks to increase local purchases of agricultural products and encouraging production of additional value added products. Another recommendation of the study was to increase farm commodity exports. The Cabinet has an export office.

One area that has been called deficient in Kentucky is research and development. One of the tactic teams is looking at the Commonwealth Venture Fund and proposing that it be increased and privately run to increase R & D investment in the state.

Also discussed at the Task Force meeting in April was the smoking policy at the Blue Grass Airport. The Airport Board adopted a policy to prohibit smoking in the public spaces of the airport terminal and to allow smoking only in the restaurant and lounge, or outside the building. Members of the Task Force were concerned that the policy was too stringent and did not comply with Senate Bill 316, which requires smoking policies in governmental office buildings or workplaces to provide accessible indoor smoking areas in any buildings where smoking is otherwise restricted, and to favor allowing smoking in open public areas where ventilation is adequate. The Task Force continued to pursue its concerns over the smoking policy, and approved when it was determined that construction of a smoking room in the terminal would be undertaken.

At the June meeting, an economist with the University of Kentucky Department of Agricultural Economics spoke to the Task Force. He discussed the pool stock buy-out, the report of the Advisory Committee on the Government Tobacco Program, and other issues.

Besides preventing a large excise tax increase, the most significant achievement for the industry in 1994 was the buy-out of the pool stocks. The 400 million pound surplus of burley in the pool was eliminated and the buy-out avoided a 20% to 40% cut in the quota and held the no-net cost assessment to a low level. The buy-out achieved short-term quota stability and may have saved the tobacco program, but the buy-out did not ensure long-term quota stability.

Long-term quota stability hinges on improving our competitive position in the world market. The Advisory Committee on the Government Tobacco Program was appointed to make recommendations on how the program can be revised to make the United States more competitive. The Advisory Committee focused on two variables: quality and price -- with quality receiving most of the attention.

At the June Tobacco Task Force meeting, a member asked a tobacco company representative what it would take to get the companies to use more Kentucky tobacco. The representative said more use would result from two things: opening more overseas markets and lowering the price that the farmer gets for his tobacco. Also at this meeting, tobacco companies were criticized for providing assistance to growers in other countries and for moving some of their production facilities overseas.

At the Subcommittee meeting in August, a representative of the Kentucky Farm Bureau discussed policies affecting tobacco and other tobacco concerns. There continues to be pressure to eliminate federal outlays for agricultural programs, but the tobacco program operates at a no-net cost to the taxpayer. Only \$15 million in federal funding is used, primarily for administration of the program. Tobacco growers and the tobacco companies pay \$30 million per year in budget deficit assessments, so the program is a net money maker for the government. The Farm Bureau representative suggested growers and companies might consider levying a one cent per pound assessment on themselves to

pay the administrative costs of the program, thus eliminating one of the arguments raised against the tobacco program.

The Farm Bureau representative said leasing is a controversial policy issue. It also hurts the competitiveness of United States tobacco. The Farm Bureau now supports statewide leasing.

The Farm Bureau opposes regulation of tobacco under the FDA. In July, the Task Force sent a resolution to the President opposing regulation of cigarettes by the Food and Drug Administration.

At the August Task Force meeting, Kentucky's Agriculture Commissioner addressed the Task Force. The Commissioner said tobacco will be with us for a long time, but maybe not at quite the production level it was a few years ago, when it brought in \$900 million to Kentuckians. It might stabilize at \$700 to \$800 million per year.

The Commissioner said we are not doing enough to diversify agriculture in Kentucky. But, unfortunately, people think you're abandoning tobacco when you say this. We must support tobacco as well as working for diversification. The Commissioner encouraged the legislature to look at the need to carry out more agricultural and agricultural diversification research at the universities.

The Commissioner had comments about the regulation of teen smoking. Whether it is by FDA regulations, or special legislation, it will have a significant impact on the state. Enforcement is going to come down to the states, and it will be costly.

Administration of the law passed in the 1994 session to prevent underage smoking was undertaken by the Department of Agriculture (without any allotted money) to keep the state from losing six to eight million dollars of drug enforcement money. The Commissioner suggested that the law needs to be revisited and have some teeth put in it, and it needs to be enforced by an agency that has some authority.

A member noted that the Scott Paper Company plant, near Owensboro, received major economic incentives to come to the state. Scott has now put in place a very strict no smoking policy that requires a smoker to leave the premises (and drive one and one-half miles) to smoke. Members concluded it would be a good idea to address a company's proposed smoking policy before incentives are offered. It was noted that some of the funds for the incentives to Scott Paper were generated by tobacco.

Another topic at the August Task Force meeting was tobacco processing facilities leaving the state. A representative of the Burley Co-op said that in 1972 there were 26 tobacco processing facilities in the state, but today there are only four. It is important to keep these plants in Kentucky because of the employment, and because they strengthen sales of tobacco in the state. Ninety percent of the tobacco grown in Kentucky last year was sent to North Carolina to be processed. It was speculated that the decision to move

the processing plants to North Carolina was partly political and partly economic. One member suggested workers' compensation costs in Kentucky could be a factor in the move.

The Co-op representative noted that federal export enhancement funds were cut off to tobacco. There is a group that is working on changing this, but with little success. Tobacco research funds have also been cut off by the federal government. At the August meeting the Task Force recommended restoring these research funds and noted that according to the applicable federal legislation, funding for genetic research on tobacco should not have been dropped.

At the August Subcommittee meeting the director of the Division of Regulatory Services at the University of Kentucky College of Agriculture appeared before the Subcommittee to talk about an effort underway to combat blue mold.

A University of Kentucky representative also discussed the tobacco seedling law which was amended in the 1994 General Assembly. The law requires that tobacco plants that are regulated be identified as to kind, variety, and lot number, and be visibly healthy. Regulated growers were located within and outside the state. Inspected out-of-state plants came mainly from Florida in 1994. Staff have not inspected any plants that were not "visibly" healthy or any plants that have come into the state that appear to have blue mold. It was noted that the infected plants were not coming from those who were regulated under the seedling law. They appear to be coming from Georgia and other parts of the South as Kentucky farmers bring them in on their own. Growers were advised to only buy seedlings from seedling producers that are certified. The committee also discussed the contribution to the blue mold problem brought about by ridomil use in greenhouses and ridomil resistance.

### **Future Uses Subcommittee**

The Future Uses Subcommittee met three times and concentrated its work on what have come to be known as extended uses of tobacco.

As the members explored extended uses of tobacco, two ground rules were set. First, the members stressed that traditional tobacco production is, and will be for the foreseeable future, an economic bedrock for Kentucky's agricultural community. Any benefit from developing extended uses of tobacco should be viewed as adding to that bedrock. Second, the members emphasized that, whatever course is taken by state government or universities to boost new uses for tobacco, the interests of Kentucky growers must be protected.

How can tobacco be extended to new uses? In testimony before the Task Force, a representative of the University of Kentucky, Department of Agronomy explained that extended uses involves creating tobacco plants to produce marketable products that are not found in or recovered from tobacco we currently grow. This may involve introducing

new genetic material into suitable tobaccos in order to cause the plant to form new products. Once these are created, farmers can grow the new plants in the field; then products can be recovered, purified, and marketed.

The tobacco plant has attributes particularly suitable to genetic engineering. The plant can be easily manipulated genetically and it produces a lot of biomass. Once the genetic makeup of the plant has been altered, millions of seeds can be produced and planted. Soon after, the large, easily harvested leaves of tobacco often produce a high yield of extractable product.

Marketable products resulting from genetic engineering, could include: proteins, food and cosmetic products, fuels, industrial enzymes, pharmaceuticals, new antibiotics, and many other products.

The direct benefit to Kentucky growers from extending the use of tobacco into these new products can not be quantified today. New commercial uses for the tobacco plant could certainly benefit farmers. Testimony revealed that it is possible within 10 years to be growing 100,000 acres of extended-use tobacco achieving product values in the range of \$400 to \$100,000 per acre for various products, each having acreage limited by its market.

After conducting a series of meetings on extended uses of tobacco, the Subcommittee concluded that extended uses of tobacco have the potential to benefit Kentucky farmers. However, those benefits are poorly defined. Therefore, in making the following recommendations the Subcommittee hopes to adequately safeguard farmers' interests as the benefits to be derived from extended uses of tobacco become clear and achievable. The subcommittee recommended that:

- An effort must be made to fully understand how tobacco grown for extended uses fits within the present federal tobacco quota program, and farmers interests must be protected. Should development of a dual quota program that would allow present quota holders to acquire a second allotment to raise tobacco for extended uses be explored?
- An effort should be made for universities involved in research on extended uses of tobacco to maximize limited research funding by coordinating and sharing research to the extent most practical.
- An effort should be made to reverse the elimination of federal funding for research on genetic engineering of tobacco.
- An effort should be made to encourage commercial interests, government, and university researchers to communicate and share knowledge.
- An effort should be made to keep Kentucky farmers aware of the progress toward commercially viable extended uses of tobacco.

On October 1, sixteen members of the Task Force attended an international symposium on Engineering Plants for Commercial Products and Applications, sponsored

by the University of Kentucky. At this symposium, Task Force members met with a number of scientists involved with tobacco bioengineering. They also met with the Tobacco Research Board, which directs the Tobacco and Health Research Institute at UK. The THRI, at the urging of the Board and the Task Force, has recently shifted its emphasis to bioengineering of tobacco.

In November, the Task Force will travel to Hopkinsville to observe opening day burley sales and discuss tobacco concerns with farmers and others involved with the tobacco industry.

**REPORT OF THE 1994-95  
SPECIAL SUBCOMMITTEE ON VETERANS' AFFAIRS**

**Representative Eddie Ballard, Chair  
Senator Dan Seum, Vice-Chair**

Rep. Kaye Bondurant  
Sen. Charlie Borders  
Sen. David Boswell  
Rep. James Bruce  
Rep. Mark Farrow  
Rep. Drew Graham  
Sen. Paul Herron, Jr.  
Rep. Jim Maggard  
Sen. Barry Metcalf  
Sen. Virgil Moore

Rep. Ramsey Morris, Jr.  
Rep. Lonnie Napier  
Rep. Steve Riggs  
Sen. Albert Robinson  
Sen. Larry Saunders  
Rep. Charles Siler  
Sen. Elizabeth Tori  
Rep. Richard Turner  
Rep. James Zimmerman

LRC STAFF: Kent Downey and Shirley Hart

**PRESENTED TO THE  
LEGISLATIVE RESEARCH COMMISSION  
AND THE  
1996 REGULAR SESSION OF THE  
KENTUCKY GENERAL ASSEMBLY**



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

**JURISDICTION:** gather information, set legislative priorities, and act as a sounding board on behalf of Kentucky veterans relative to issues affecting them.

### **SUBCOMMITTEE ACTIVITY**

The Subcommittee has held 12 meetings between September 19, 1994, and November 27, 1995. The following issues were discussed: the establishment of veterans' cemeteries; the establishment of two additional state-run satellite veterans' nursing homes; the status of tax exemption for military retirees; exempting the Kentucky Usage Tax of active duty military personnel who have transferred to Kentucky and who were tax exempt when they purchased a vehicle elsewhere; the establishment of a permanent Veterans' Affairs Committee of the Kentucky General Assembly; the Veterans' Trust Fund; educational benefits to veterans and their dependents; issuance of various veterans' license plates; flag desecration; and the re-establishment of the Special Subcommittee on Veterans' Affairs.

The Subcommittee adopted the following resolutions: honoring John Brizendine, Jr.; honoring Brigadier General Julius L. Berthold; requesting that the Governor place on the agenda of the next extraordinary session of the General Assembly the appropriation of funds to construct two additional veterans' nursing homes, financed with charitable gaming funds.

At the October 30 meeting, the Subcommittee pre-filed 96 BR 979 and 96 BR 454, concurrent resolutions requesting the Legislative Research Commission to reestablish the Subcommittee on Veterans' Affairs; 96 BR 302 and 96 BR 974, an act to establish a separate Department of Veterans' Affairs; 96 BR 455 and 96 BR 494, an act relating to using excess charitable gaming monies for the operation of state-run veterans' nursing homes; 96 BR 493, an act relating to veterans' cemeteries in the Commonwealth and providing funding therefor; 96 BR 903 and 96 BR 821, an act relating to special veterans' license plates; 96 RS 299, an act to reopen the window for filing application relative to state taxation of federal retirement pay; 96 BR 810, and act to appropriate money for the construction of two additional state-run veterans' nursing homes.