

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

1996-97

Presented to the
**Legislative Research Commission
and the
1998 Kentucky General Assembly**

Edited by
Charles Bush

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FOREWORD

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

With the implementation of the constitutional amendment approved in 1979, the interim activity takes on added significance. This amendment, frequently called the Kenton amendment, 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 1996 interim, the Legislative Research Commission authorized the formation of thirteen interim joint committees. In addition, ten 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 statute.

The Legislative Research Commission provides this informational booklet as a summary of the activity of interim joint, special, and statutory committees since adjournment of the 1996 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, 1997

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**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
AGRICULTURE AND NATURAL RESOURCES**

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**PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION
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INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

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

COMMITTEE ACTIVITY

Senator Jeff Green co-chaired the Committee until the midpoint of the interim. Staff wishes to express their sadness at Jeff's death and the loss of his leadership and his friendship.

In mid-October, 1997, the Senate Committee on Committees appointed Senator Bob Leeper to be the Senate Co-Chair of the Committee. Senator Leeper assumed his co-chair role at the November, 1997, meeting.

The Interim Joint Committee on Agriculture and Natural Resources met 14 times during the 1996-97 legislative interim as of November 30, 1997. In addition to its Frankfort meetings, the Committee held a three-day meeting in eastern Kentucky, met with members of the State Fair Board during the 1996 and 1997 state fairs, and viewed the ongoing construction at the University of Kentucky Animal Science Research Center in Woodford County.

The Committee's subcommittees met 12 times during this reporting period, making a total of 26 meetings during the interim.

Coal mining safety was a subject of study this interim. A report was received on implementation of 1996 legislation that required the creation of a Mining Board and that strengthened requirements for the training, certification, and retraining of mine emergency technicians.

This discussion led to a second meeting to further explore mine safety. The Chair indicated a particular interest in correlating mine accidents with the time during a work shift when the accident occurred. The Chair stated his belief that more effective safety measures could be put in place if such a correlation exists.

The Committee also looked at an initiative called Empower Kentucky. The initiative is state government's plan to use technology to cut costs and improve state government services.

The Department of Surface Mining Reclamation and Enforcement demonstrated an Empower Kentucky project to use technology to reduce the use of paper and to speed up issuing and modifying surface coal mine permits. The Department also reported on efforts to further improve the state's relationship with the federal Office of Surface Mining.

As this report was prepared, staff learned that a long awaited Forest Stewardship Act proposal was to be released by the Governor's Office. Should the proposal be released, the committee will ask that an explanation of the Act be given at the November meeting. The Committee has prepared to debate the subject of proper forest management during the next session by visiting a logging site and receiving updates on development of the Governor's proposal from the Department of Natural Resources.

Several environmental topics were taken up by the Committee. As the U.S. EPA approached making a decision in July, 1997, on tightening the national air quality standards for ozone and particulate matter, the Committee studied the potential effects of the EPA's decision on the state. The Committee concluded that the tightened standards would adversely affect Kentucky. A resolution was sent to the U.S. EPA asking that the standards not be tightened without more study.

The Natural Resources and Environmental Protection Cabinet reported on a significant push to end the discharge of sewage straight into the state's streams from private homes. In a related matter, the Cabinet also reported on a crackdown on illegal solid waste dumping. Both problems are viewed as impediments to tourism and economic development, especially in eastern Kentucky.

The Committee listened to a report from the Center for Pollution Prevention. Impressed by the work of the Center to help small and medium-sized businesses voluntarily avoid waste generation, the Committee decided to ask the Cabinet to implement a program that would boost the work of the Center.

The Committee asked the Cabinet to implement the Environmental Leadership Program. The program would publicly acknowledge businesses that voluntarily reduce waste. Such a program, it is believed, would increase awareness among businesses and the public of the benefits of voluntary waste reduction. The Cabinet's response was that the Environmental Leadership Program did not have a high priority with the agency.

Several agriculture-related topics were taken up by the committee during the interim.

A meeting was held to consider changes in high school graduation requirements proposed by the Department of Education. The Committee learned that many educators

believed the changes could adversely affect farming communities. It was argued that the changes would force students to drop vocational-agricultural course electives. This in turn could discourage young adults from seeking careers in agriculture.

The Committee decided that the concerns had merit and sent a letter to the Department of Education opposing the changes.

The Committee also took up two particularly contentious topics: industrial hemp as a cash crop and tougher standards for hog farming. Both topics arose because of the continuing shift in Kentucky's agricultural economy.

As tobacco remains under a cloud of uncertainty, some view industrial hemp as another cash crop Kentucky farmers might grow. However, the Committee learned that federal restrictions on growing marijuana, a closely related plant, also apply to industrial hemp.

Concentrated hog farming has arisen as another possible approach to increasing farm productivity. The Committee heard testimony late in the interim on an emergency regulation of the Department of Environmental Protection. The regulation was written to control the risk of environmental harm while not adding unnecessarily to the costs of hog farming. The Committee expressed an interest in watching the issue closely.

Administrative Regulations

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

This interim the Committee and its subcommittees reviewed 202 administrative regulations. These regulations related to the programs of the Department of Agriculture, the Department of Fish and Wildlife Resources, the Department of Mines and Minerals, the Divisions of Air Quality, Waste Management, and Water, in the Department for Environmental Protection, and the Office of the Petroleum Storage Tank Environmental Assurance Fund.

All of the regulations were found to comply with statutory requirements, although not without debate and requests for clarification.

For example, the Division of Waste Management sought significant change to its entire hazardous waste program, which affected 123 regulations. Upon the Committee's initial review, the regulations were found deficient and not in compliance with statutory requirements.

The Chair of the Committee explained the action of the Committee by saying that the agency's long overdue revision of the regulations created a situation where the agency could not adequately inform the Committee members of the changes, as required by

statute. After representatives of the Division more fully informed the members of the proposed regulatory changes, the Committee, at its next meeting, reconsidered its earlier action and determined that the regulations did meet statutory requirements.

Also, ten regulations of the Office of the Petroleum Storage Tank Environmental Assurance Fund were, with the agreement of the Office, held over for a second review by the Committee. This action was taken in response to a business entity affected by the regulations which wanted more time to review and comment on the regulations.

Similarly, at the request of the agency, one regulation of the Department of Mines and Minerals was held over four months in order to give affected businesses and the agency time to revise provisions of the regulation objectionable to the affected businesses.

Reorganization Plans

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

- 96-485 Establishes the Office of Underground Storage Facilities and abolishes the Kentucky Petroleum Storage Tank Environmental Assurance Fund Commission.
- 96-591 Incorporates by reference Executive Order 96-485 and renames the Office of Underground Storage Facilities the Office of Petroleum Storage Tank Environmental Assurance Fund.
- 96-619 Transfers enforcement of SB 137 of the 1996 General Assembly, which relates to prohibiting tobacco sales to minors, to the Department of Alcoholic Beverage Control from the Department of Agriculture.
- 96-697 Establishes the Office of Legal Services of the Natural Resources and Environmental Protection Cabinet, Central Investigation Section.
- 96-726 Abolishes the Division of Water Patrol in the Department of Fish and Wildlife Resources.
- 96-944 Establishes the Office of Information Services and the Public Information and Education Branch in the Natural Resources and Environmental Protection Cabinet and abolishes the Office of Communications and Community Affairs.
- 96-946 Establishes the Kentucky Recycling Marketing Advisory Committee and abolishes the Recycling Brokerage Authority.
- 96-1438 Transfers administration of the Emergency Food Assistance Program to the Department of Agriculture from the Cabinet for Families and Children.
- 97-714 Renames the Division of Abandoned Lands in the Department for Surface Mining Reclamation and Enforcement.
- 97-1040 Abolishes the Lock and Dam Section in the Natural Resources and Environmental Protection Cabinet and transfers its functions to the Kentucky River Authority.
- 97-1374 Transfers the Animal Diagnostic Laboratory Advisory Committee to the Department of Agriculture for administrative purposes.

97-1386 Creates the Division of Mine Licensing within the Department of Mines and Minerals.

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

Resolutions and Letters Requesting Action

A letter was sent to the Natural Resources and Environmental Protection Cabinet requesting that the Environmental Leadership Program in KRS 224.46-335 be implemented.

A letter was sent to the state Department of Education opposing changes to high school graduation requirements.

A resolution was adopted requesting the United States Environmental Protection Agency to retain the present Clean Air Act standards for ozone and particulate matter.

A second resolution was adopted asking the U.S. EPA to dismiss the federal Clean Air Act, Section 126, petition filed by the northeastern states, which would negatively affect Kentucky.

Reports Sent to the Legislative Research Commission

The 1996 General Assembly passed House Concurrent Resolution 97. The resolution directed the committee to review the current requirements under KRS Chapter 258 relating to dogs and the current animal control problems in the state and to make recommendations to the Legislative Research Commission.

The Committee delegated the HCR 97 study to the Subcommittee on Agriculture and Small Business. The Subcommittee completed its work, the results of which are summarized in the Subcommittee's segment of this report, and reported to the Committee. The Committee accepted the report and sent it to the Legislative Research Commission.

Prefiled Bills Referred by the Legislative Research Commission

The following bills prefiled for the 1998 regular session were referred by the Legislative Research Commission to the Committee:

- 98 RS BR 45 AN ACT relating to water pollution.
- 98 RS BR 179 AN ACT relating to hunting and fishing licenses.
- 98 RS BR 316 AN ACT relating to agriculture and declaring an emergency.
- 98 RS BR 347 AN ACT relating to sales and use tax exemptions.
- 98 RS BR 364 AN ACT relating to animal euthanasia.

- 98 RS BR 384 AN ACT relating to sales tax.

The Committee has scheduled testimony to be received at the November meeting on BR 45 and BR 347.

Legislative Proposals Received from State Agencies

The Committee requested legislative proposals for the 1998 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.

In response to the requests for legislative proposals, the following information was received prior to the November meeting of the Committee.

Representatives of the Natural Resources and Environmental Protection Cabinet stated that they expect to initiate legislation relating to forestry and the long-term conservation of forest resources, waste tire management, and the state water program, to bring it into conformity with the federal Safe Drinking Water Act.

The Department of Fish and Wildlife Resources submitted the following list of possible legislative proposals:

1. Ratify the Executive Order abolishing the Division of Water Patrol.
2. Revise the waterfowl and migratory bird permit statute to reflect federal requirements.
3. Broaden the actions that are considered damaging to public and private property.
4. Revise the big game permit to cover elk and to allow for multiple big game permits.
5. Allow an assessment of replacement costs when elk are illegally taken.
6. Repeal the ferret statute.
7. Revise the definition of "protected wildlife".
8. Amend the state endangered species statute to reflect current federal law.
9. Remove prohibitions against hunting on a hatchery and the presence of dogs at the Game Farm.
10. Amend KRS 150.225 to raise the maximum license fees the Department may charge.
11. Allow the Department to set boat registration fees by administrative regulation.
12. Increase penalties for boating violations.
13. Delete the ten-day grace period for obtaining a pet or propagation permit.
14. Repeal the fur processor's license and reporting requirements.
15. Allow boaters to participate in commission elections.
16. Create a state wanton waste law.
17. Exempt the Department from the recreational use statutes.

Tours and Site Visits

In the fall of 1996 the Committee toured in eastern Kentucky. While at the Hazard Community College, the Governor and nearly all his Cabinet Secretaries joined with the

Committee for a meeting related to the state's forest resources. The Committee also met with several eastern Kentucky county judge/executives to listen to their concerns about solid waste management.

The reason for the Committee's tour in eastern Kentucky was to focus on forest management issues, a subject studied by the Committee over the last four years. On this trip, some members viewed a logging site where industry's "best management practices" were used. Also members toured the manufacturing facilities of Trus Joist MacMillen, which is an example of the state's secondary wood industry. Finally, the Committee met at the Hazard Community College to learn how the University of Kentucky is working to develop a labor force for the wood industry.

The Committee held its August meetings for both years of the interim in conjunction with meetings of the State Fair Board. These meetings took place during the Kentucky State Fair, the premier showcase of Kentucky's agricultural industry. Committee members learned of expansion and renovation plans for the facilities managed by the Fair Board and were able to meet with agricultural leaders from throughout the state.

Late in the interim the Committee visited the University of Kentucky Animal Science Research Center in Woodford County. The President of the University addressed the Committee and explained how the legislative funding for the Center will enable the College of Agriculture to maintain its position as one of the top six schools in the country for animal science research. Members were then given an overview of the plans to develop the research capabilities of the farm, followed by a visit to the location where the beef cattle research unit was under construction.

Reports Received

House Bill 605, AN ACT relating to coal mining and declaring an emergency.

The Committee received a report from the Department of Mines and Minerals on implementation of this 1996 regular session legislation aimed at improving coal mine safety.

Report of the Task Force on Funding for Wildlife Conservation.

The Committee was briefed on the work of the Task Force, which was created by the 1996 General Assembly to study the long-term funding needs and options for wildlife.

1996 Annual Report of the Kentucky Center for Pollution Prevention.

1997 Annual Report of the Heritage Land Conservation Fund Board.

1996 Annual Report of the Heritage Land Conservation Fund Board.

March 31, 1997, Mining and Minerals Trust Fund Report.

September 30, 1997, Mining and Minerals Trust Fund Report.

1997 Annual Report of the Kentucky Recycling and Marketing Assistance Office.

1996 Annual Report of the Kentucky Recycling and Marketing Assistance Office.
January 15, 1997 Biennial Report of the State Nature Preserves Commission.
Report for April 1 - June 30, 1997 of the Tobacco Health Research Institute.
Report for July 1 - September 30, 1997 of the Tobacco Health Research Institute.

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

Subcommittee on Agriculture and Small Business

The Subcommittee met five times during the interim, as of October 31, 1997. The Subcommittee met in November to discuss the dairy marketing compact and the fluid milk support price. It also reviewed administrative regulation 302 KAR 40:010, relating to organic agricultural product certification.

The focus of the interim activity centered on program updates and legislative proposals by various agencies. Information was presented to the Subcommittee concerning the status of Phase I construction at the UK Animal Research Center in Woodford County, the linked deposit investment program in the Department of Agriculture, and the status of Farm Service Agency office closings in the state. The Subcommittee also heard testimony regarding aquaculture in Kentucky, and got an update from the Small Business Development Center, as required by Kentucky Acts 1996, Chapter 293, Section 2, relating to its annual financial and program status.

In addition, potential legislative proposals were discussed by representatives of the Kentucky Farm Bureau, the UK College of Agriculture, and the Department of Agriculture. Included in the proposals were requests for funding for agricultural programs and the Animal Research Center, and legislation relating to the linked deposit investment program, animal control, and the regulation of the sale of tobacco transplants.

The full committee instructed the Subcommittee to complete a report on animal control and care, required by 1996 House Concurrent Resolution 97. The Subcommittee heard testimony from several people with diverse interests in animal control, including animal control officials, animal shelter managers, state officials, and private citizens. The report was completed and sent to the full committee in September, 1997. The report will be printed by the Legislative Research Commission as a Research Memorandum and will focus on the following topics:

- Current dog licensing program;
- Livestock fund;
- Dog pound requirements;
- Alternate funding sources to support animal control programs; and
- Mechanisms for reviewing programs, disbursing funds, and establishing standards relating to animal control.

The Subcommittee reported the following administrative regulations to the full committee as being in compliance with KRS Chapter 13A:

302 KAR 3:010, relating to the linked deposit investment program;
302 KAR 20:110, relating to the treatment of imported mares;
302 KAR 20:120, relating to the treatment of imported stallions; and
302 KAR 20:180, relating to restrictions concerning equine viral arteritis.

Subcommittee on Environment

The Subcommittee met five times through November 30, 1997. Waste tire management dominated the Subcommittee's interim work. At the first meeting, the Secretary of the Natural Resources and Environmental Protection Cabinet reported on the topic, underscoring the high priority the cabinet placed on waste tire management.

The cabinet's efforts included cleaning up the most troublesome abandoned waste tire piles across the state, developing administrative regulations to further tighten controls on new accumulations of waste tires, and researching markets for fuel made from waste tires, also called TDF (tire-derived fuel).

As has been reported in past years, an obstacle to cleaning up waste tire piles continues to be a shortfall in money collected for the Waste Tire Trust Fund. Also, boiler operators continue to be reluctant to use tire-derived fuel, but the cabinet reported that serious discussions are ongoing with four potential users of TDF.

(Late in the interim, the Cabinet announced the withdrawal of the proposed waste tire management administrative regulations.)

The Subcommittee also accepted the following state agency reports:

1. *Community Rivers and Streams Program: Fiscal Year 1995-96 Grant Program Report* by the Department for Local Government.
2. *1996 Environmental Indicators Program Report on Water Quality* by the Environmental Quality Commission.
3. *1996-97 Annual Report of the Kentucky Pollution Prevention Center.*

The Subcommittee visited the manufacturing facilities of Universal Fasteners, Inc. located in Lawrenceburg. The company has altered its manufacturing process, with the assistance of the Pollution Prevention Center, to avoid the generation of waste material. Subcommittee members were able to see the company's manufacturing process changes, which now save Universal Fasteners about \$280,000 a year.

For the third consecutive interim, the Subcommittee showcased school environmental education programs. This interim Georgetown Middle School in Scott County and Liberty Elementary in Oldham County were featured.

Finally, the Subcommittee reviewed and made recommendations on ten administrative regulations of the Office of the Petroleum Storage Tank Environmental Assurance Fund, eighteen administrative regulations of the Division of Water, and three regulations of the Division for Air Quality.

Subcommittee on Natural Resources

The Subcommittee met one time during the interim, as of November 30, 1997. The subcommittee considered nine administrative regulations, three regarding oil and gas, and six regarding fish and wildlife.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
APPROPRIATIONS AND REVENUE**

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AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

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Ex-Officio Members:
Sen. Benny Ray Bailey
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 eight times during the 1996-97 legislative interim, as of November 1, 1997, and was approved by the Legislative Research Commission to hold meetings in November and December to prepare for the Regular Session of the General Assembly.

At its first interim meeting, on July 25, 1996, the committee heard from the Governor about agency budgeted expenditure cuts, and how the state has a total of \$86 million in unobligated money to fund recommended capital projects that the state has already committed to fund.

The Consensus Forecasting Group updated members on revenue receipts for the fiscal year ending June 30, 1996, exceeding the consensus forecasting estimates made in December 1995, by \$67.6 million in additional revenue. Major contributors to Kentucky's general fund growth were the sales and use tax, individual income tax, lottery revenues, property tax, and several smaller taxes relating primarily to investment and inheritance accounts. The economic outlook projects some negatives, due to the phase-in of tax laws relating to private pensions, auto valuations, and the decline in the corporate income tax and coal severance tax receipts. The next result of tax reduction provisions is a lowering of the tax base throughout the phase-in period, which ends in FY 1999.

The committee also received an update on Empower Kentucky initiatives, with its opportunities for saving expenditures and for changing the way that Kentucky does business. Eighteen key processes have been identified as the initial points of target for a more focused effort.

The committee reviewed and approved Executive Reorganization Order 96-919, relating to the creation of three divisions in the Department of Higher Education Assistance Authority.

At its second meeting, on October 24, 1996, the committee received a comprehensive update on Empower Kentucky initiatives. A cabinet leadership team has been established to provide overall management, support, and coordination for the initiatives, and 200 employees from across the cabinets have been formed into 20 different teams. The teams are cross-functional teams that are looking at every aspect of each process to see whether services can be done more efficiently and more cost-effectively. The teams will then make recommendations to the leadership team. A legislative steering committee has also been formed to receive and review the final plans for funding the prioritized recommendations. Enacted legislation requires a \$50 million recurring expense savings by FY 1998.

The committee reviewed and approved Executive Reorganization Order 96-1376, which transfers the duties and functions relating to debt issuance for local entities from the Office of the Controller, in the Finance and Administration Cabinet, to the Division of County and Municipal Accounting, in the Department of Local Government.

The committee also reviewed and approved Administrative Regulation 200 KAR 15:010, which relates to the formula for allocation of private activity bonds.

At its third meeting, February 27, 1997, the committee heard from the Governor's Office for Policy and Management and the Revenue Cabinet on the status of a Kentucky Supreme Court decision relating to the intangible personal property tax on corporate stock. The court has ruled that taxpayers who filed in a timely fashion should receive refunds, but since the decision was made, the plaintiff's attorneys filed a petition for a rehearing and for extension and modification of the ruling. The Revenue Cabinet will begin issuing refund checks when the litigation is finally resolved. The Revenue Cabinet's initial estimate is that the tax refund liability will be \$240 million, with a loss to the General Fund revenue base of approximately \$30 million.

The committee was also told about another tax liability issue. A December 1994 decision made by the Kentucky Supreme Court on the GTE unitary case, a corporate income tax case relating to permissible tax filing methods, was originally estimated to be \$50 to \$60 million. The total liability relative to the case today is about \$160 million. Ways to cover the refund liabilities were outlined for the committee.

At its fourth meeting, held on April 24, 1997, the committee received an update from the Consensus Forecasting Group. Because economic growth has been stronger than originally forecasted, and because General fund revenue growth exceeded expectations in the first three quarters of FY 1997, the General Fund revenue estimate has been revised to \$5,552.9 million, which is a surplus of about \$70 million. The sales and use tax, the individual income tax, the lottery, and the "other" category exceeded expectations, but the

corporate income tax, coal severance tax, and property tax were revised downward. The phase-in of tax reductions, including elimination of the intangibles tax, will cost \$70 million off the top in FY 1998.

The committee also received an update about ongoing Empower Kentucky initiatives within the Revenue Cabinet. Four different projects in the Revenue Cabinet have been funded under Empower Kentucky: a vendor offset program, an officer assessment program, a bank levy program, and a tax gap program. These four programs are already bringing in additional revenue to the state.

The committee was updated on the tax liability from the GTE unitary refund case and the intangible tax refund case. The current amount owed under the GTE unitary refund case projected, through the end of April 1997, with interest, is estimated to be \$176 million. The tax liability relating to the intangible tax refund has been revised downward from \$240 million to \$183.5 million. The amount was revised downward because many of the claims filed were duplicate or invalid claims.

At its fifth meeting, on July 24, 1997, the committee received a report on year-end revenue receipts. For FY 1997, General Fund revenues exceeded the official consensus revenue estimate, done in April 1997, by \$107 million, an increase of 1.6 percent over FY 1996. This upward revision is attributed to good growth in the sales and use tax, the individual income tax, property taxes, lottery, and the "other" category. The corporation income tax experienced a growth of 2.8 percent during this period. The coal severance tax, however, has continued to decline, although the decrease is less than in FY 1996. Empower Kentucky initiatives are responsible for about \$3.7 million in revenue for FY 1997. Road fund receipts also experienced a growth of 2.2 percent from the previous year. For FY 1998, the General Fund forecast anticipates a growth rate of 1.5 percent. The phase-in of individual income tax cuts and inheritance tax cuts, as well as recent court decisions, will have their greatest marginal impact during FY 1998.

The committee received a preliminary report on year-end balances from the Governor's Office of Policy and Management. As of June 30, 1997, the total General Fund balance is \$284.1 million, which is greater than a May 1997 projection of \$252 million. The state also has the smallest lapse amount in recent history. At the end of this fiscal year, \$4 million in state agency debt service, and \$11 million from states agencies was lapsed. For FY 1998, the year-end balance is projected to be \$106 million, much greater than the May projection of \$15 million. Projections are greater because of Kentucky's continued strong economic growth and strong revenue growth. The drop from \$284.1 million in FY 1997, to \$106 million for FY 1998, reflects the adjustments for court liabilities, as well as the expenditures that were enacted during the special session on higher education. The state has also maintained \$200 million in the budget reserve trust fund.

The Revenue Cabinet updated the committee on the status of the refunds on the intangible tax court case. The attorneys for the plaintiffs have filed an injunction

prohibiting the Revenue Cabinet from sending out refund checks until the issues of attorney fees and interest owed have been resolved. Those issues are before the Jefferson Circuit Court and the cabinet is waiting for a decision to be rendered.

The committee reviewed and approved Executive Reorganization Order 97-715, relating to reorganization of the Revenue Cabinet.

At its sixth meeting, on August 28, 1997, the committee was updated on Empower Kentucky. Empower Kentucky was funded \$103.4 million, and all initiatives, including unfunded programs, are continuing to move forward. Two projects were fully funded at the onset and have no further funding needs. Other projects received only limited funding, and it is estimated that it will require \$77.1 million to fully fund these projects. Empower Kentucky has already resulted in many achievements for the state. Implementation of processes in the Revenue Cabinet alone have already resulted in a savings of \$3.7 million for FY 1997.

At its seventh meeting, on September 25, 1997, the committee received an update on the state contribution for payment of health insurance premiums for teachers and state employees. The state contribution is \$185 for calendar year 1997, and \$194.50 for calendar year 1998, which will purchase a standard high single policy for every HMO plan that is offered, with the exception of one. For the next biennial budget, the cabinet is recommending that \$205 be allowed for 1999, and \$215 for calendar year 2000. The cabinet bases its health insurance contribution recommendations for the 1999-2000 biennial budget on medical CPI averages over the last four to five years, which have increased by about 5 percent annually. The only indemnity plan offered is by Kentucky Kare, which has had the highest rate increase.

The committee considered and approved administrative regulation 103 KAR 15:050, relating to income tax filing dates and extensions; and administrative regulation 200 KAR 17:070, relating to the Drinking Water Revolving Fund.

At its eighth meeting, held on October 23, 1997, the committee heard from the Consensus Forecasting Group. A preliminary forecast is required by statute to be presented for the next biennium prior to a regular session of the General Assembly. Revenue receipts are up by 8.5 percent for the first quarter of FY 1998, as compared to the same time last year. With such a strong first quarter, only 1.2 percent growth is needed for the remainder of the fiscal year to achieve the current official estimate presented in May 1997. The current General Fund estimate has been revised upward by \$156 million for FY 1998. A slight downward adjustment was made for the sales and use tax for the first quarter, but this is expected to level out and stabilize. Both the individual and corporation income taxes were revised upward by \$60 million because of strong economic growth. Property tax was down because of larger than anticipated declines in intangible property tax receipts. General Fund growth is projected at 4 percent for FY 1999, and 4.9 percent for FY 2000. In addition, additional revenue is expected from the efforts of Empower Kentucky. The new revised forecast for FY 1998 to FY 1999 projects a growth

of \$240 million between those two fiscal years. The base adjustment for FY 1999 to FY 2000 will be an additional \$311 million growth.

SUBCOMMITTEE ACTIVITY

The Interim Joint Committee on Appropriations and Revenue is organized into six budget review subcommittees. Their purpose is to review revisions to the enacted 1996-1998 budget, and to monitor the budgetary operations and programs of state government, as well as address agency budget needs for the 1998-2000 biennium.

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

The Budget Review Subcommittee on Economic Development, Natural Resources, and Tourism has held seven meetings during the 1996-97 interim from October 1996 through October 1997.

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

FY 1996-97 Appropriation Increases

Cabinet	General Fund	Restricted Funds	Federal Funds
Economic Development		8,563	
Natural Resources	714,400	370,400	719,100
Tourism	<u> </u>	<u>2,010,000</u>	<u>839,330</u>
Totals	714,400	2,388,963	1,558,430

FY 1997-98 Appropriation Increases

Cabinet	General Fund	Restricted Funds	Federal Funds
Natural Resources		3,303,500	1,940,700
Tourism		<u>3,149,500</u>	<u>981,500</u>
Totals		6,453,000	2,922,200

The Economic Development Cabinet provided a status report to the Subcommittee on the Regional Industrial Park Program and provided an overview of the Industrial Recruitment process. The Subcommittee also heard testimony from representatives of the Kentucky Technology Service program and the Kentucky Woods Products Competitive Corporation.

The Natural Resources Cabinet reported several times during the interim on the implementation of the electronic permitting system in the surface mining program, and other EMPOWER Kentucky initiatives under the Simplified Regulatory Services

component. A meeting was held in September at the Department for Surface Mining for a demonstration of the computer system. Other topics presented by the Cabinet include the forestry inventory needs of the Commonwealth, initiatives to eliminate straight pipe sewage discharges into streams and rivers, and to assist counties in enforcing laws against illegal dumping.

The Subcommittee received testimony from the Tourism Development Cabinet regarding Park Revitalization Bond projects, the Advertising Campaign, the Jenny Wiley Trail Task Force, State Park Facilities within the Eastern Kentucky region and the Task Force on Funding for Wildlife Conservation.

Budget Review Subcommittee on Education

The Budget Review Subcommittee on Education has met seven times during the interim, including a joint hearing with the Finance and Management Issue Group of the Task Force on Public Education.

The Subcommittee has discussed the various areas relating to the state's elementary and secondary education programs, including its Community Education and School Facilities Construction Programs. The Subcommittee met jointly with the Finance and Management Issue Group of the Task Force on Public Education for a discussion relating to teacher compensation.

The Subcommittee met several times prior to the First Extraordinary Session of the General Assembly in June 1997, to discuss issues relating to Postsecondary education, including briefings from members of the Task Force on Post-Secondary Education, and the Kentucky Higher Education Assistance Authority (KHEAA).

The Subcommittee also reviewed 74 requests for interim appropriations increases, totaling approximately \$81.8 million, during the 1996-97 interim. These requests are as follows:

Interim Appropriation Changes

FY 1996-97

Cabinet	Restricted	Federal	Total	Total # Requests
Education, Arts, & Humanities	340,440	4,121,000	4,461,440	15
Department of Education	562,400	3,525,385	4,087,785	4
Workforce Development Cabinet	(1,990,400)	27,600,400	25,610,000	17
Higher Education	1,820,000	2,800	1,822,800	3
Totals - FY 1996-97	732,440	35,249,585	35,982,025	39

FY 1997-98

Cabinet	Restricted	Federal	Total	Total # Requests
Education, Arts, & Humanities	807,660	630,900	1,438,560	15
Department of Education	710,000	1,961,782	2,671,782	4
Workforce Development Cabinet	1,471,800	40,262,400	41,734,200	13
Higher Education	1,400,000	240,000		3
Totals - FY 1997-98	4,389,460	43,095,082	45,844,542	35
Grand Totals - 1996-97 Interim	5,121,900	78,344,667	81,826,567	74

*Includes Interim Appropriations Increases processed in June 1996

**Budget Review Subcommittee on
General Government, Finance & Public Protection**

The Budget Review Subcommittee on General Government, Finance and Public Protection held six meetings during the interim. Significant issues and presentations included an overview of the Petroleum Storage Tank Environmental Assurance Fund by the Public Protection and Regulation Cabinet, an overview of the Department of Public Advocacy, and a presentation by the Department of Agriculture about the Department's Value Added Initiative Program.

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.

	<u>FY 1996-97</u>	<u>Number</u>	<u>FY 1997-98</u>	<u>Number</u>
General Fund	205,114,400	23	258,701,200	18
Restricted Funds	20,595,000	46	5,841,600	27
Federal Funds	70,187,979	22	63,399,200	16

FY 1996-97

<u>Cabinet</u>	<u>General Fund</u>	<u>Restricted Funds</u>	<u>Federal Funds</u>
General Government			
Agriculture		210,200	258,545
Auditor of Public Accounts		762,000	
Attorney General	300,000	826,200	204,900
Commission on Women			5,000
Human Rights Commission		37,500	
UPS Commonwealth	44,700		133,434
UPS County			30,500

<u>Cabinet</u>	<u>General Fund</u>	<u>Restricted Funds</u>	<u>Federal Funds</u>
Military Affairs	11,618,000		30,000,000
Personnel Board		3,000	
Local Government	70,000		
Miscellaneous Appropriations	22,428,200		
Kentucky Retirement Systems		443,400	
Empower Kentucky	168,411,300		
Kentucky Kare		20,800	

Finance and Administration

General Administration	(70,000)	193,000	38,962,300
Administration	110,000	1,112,500	
Facilities Management	702,200	(10,669,000)	
Information Systems		10,669,000	
County Costs	1,500,000	100,000	

Public Protection & Regulation

Housing, Buildings & Construction		346,000	
Public Advocacy		340,000	144,400
Public Service Commission			78,000
Alcoholic Beverage Control		292,800	
Insurance		2,902,600	

Labor Cabinet

General Administration		56,200	
Workplace Standards		4,219,000	370,900
Workers' Claims		1,978,100	
Workers' Comp. Funding Comm.		6,253,000	

Boards and Commission

Counselors		5,000	
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Engineers and Land Surveyors	75,000
Landscape Architects	10,000
Nursing	168,600
Nursing Home Administrators	19,700
Optometric Examiners	55,000
Physical Therapy	45,000
Psychology	11,500
Real Estate Appraisers	53,700
Real Estate Commission	
Education and Recovery	35,000

<u>Cabinet</u>	<u>General Fund</u>	<u>Restricted Funds</u>	<u>Federal Funds</u>
Speech Pathologist		11,300	
Veterinary Examiners		4,700	
Occupational Therapy		4,200	

FY 1997-98

<u>Cabinet</u>	<u>General Fund</u>	<u>Restricted Funds</u>	<u>Federal Funds</u>
General Government			
Agriculture		95,000	872,000
Attorney General	300,000		199,100
Commission on Women			5,000
Executive Branch Ethics		8,000	
UPS Commonwealth	134,100		347,100
UPS County	51,100		70,000
Military Affairs	5,098,000		26,000,000
Personnel Board		7,900	
Miscellaneous Appropriations	241,591,000		
Finance and Administration			
General Administration	9,927,000	635,000	34,154,600
Administration		512,000	
Facilities Management		80,600	
County Costs	1,600,000	100,000	
Personnel Cabinet			
Life Insurance		1,165,000	
Public Protection & Regulation			
Housing, Buildings & Construction		582,100	
Public Advocacy		1,445,900	72,200
Public Service Commission			102,000
Alcoholic Beverage Control		42,000	

Insurance	588,000
KY Racing Commission	125,000

Labor Cabinet

Workplace Standards 577,200

Boards and Commissions

Alcohol and Drug Counselors	56,800
Art Therapist	6,400
Nursing	391,900

Budget Review Subcommittee on Human Resources

The Budget Review Subcommittee on Human Resources met seven times during the interim and may have additional meetings prior to the 1998 Session.

Per 1996 House Bill 379, budget revisions for the Cabinet for Families and Children and the Cabinet for Health Services resulted in \$180 million in FY 1996-97 above the Enacted Budgets. Included are: a) \$45 million General Fund dollars, of which \$38.4 million is Family Youth Resource Center dollars budgeted in the Department of Education; b) \$53.7 million Restricted Funds, of which \$43 million is Medicaid-Administration (\$16 million) and Medicaid-Benefits (\$27 million); and c) \$81.4 million Federal Funds, of which \$63.2 million is Medicaid-Benefits.

As of October, 1997, budget revisions for FY 1997-98 resulted in \$179.4 million above the Enacted budgets. FY 1997-98 also includes the transfer of Juvenile Justice to the Justice Cabinet as follows: \$36.1 million General Fund dollars, \$4.9 million Restricted Funds, and \$17.6 million Federal Funds.

The net effect on each department is as follows:

<u>Cabinet for Families and Children (CFC)</u>	<u>FY 1996-97</u>	<u>FY 1997-98 as of 10/97</u>
Administration and Program Support	\$ 1,357,100	
Family Resource and Youth Service Centers (FRYSC)	38,621,800	39,550,600
Social Services		
FY 98 includes \$58.6 million transfer to Justice and \$50.4 million additional dollars	1,128,000	(8,156,300)
Social Insurance-Administration		
Includes a) In FY 97, +\$12.4 million and in FY 98, +\$26.6 million to transfer Disability Determinations from DPH; in	16,510,100	38,419,500
FY 98, -\$.9 to Agriculture		
Social Insurance-Benefits	6,029,200	(1,200,000)

Total CFC	\$63,646,200	\$ 68,613,800
Note: Net CFC increase, excluding FRYSC and reorganizations (DD & Justice)	\$12.6 million	\$60.1 million

	<u>FY 1996-97</u>	<u>FY 1997-98</u> <u>As of 10/97</u>
Cabinet for Health Services (CHS):		
Medicaid-Administration		
FY 98 includes: +\$11.1 million additional Restricted Funds and -\$11.2 million reduced Federal Funds		
	\$16,032,700	(154,200)
Medicaid-Benefits	90,241,900	113,382,100
Mental Health/Mental Retardation	17,813,400	18,912,000
Commission for Children with Special Health Care Needs	225,000	1,677,300
Health Services/Public Health (DPH)		
In FY 97, +\$4 million additional dollars and - \$12.4 million Disability Determination reorganization transfer to DSI; In FY 98, +\$3.6 million additional dollars and -\$26.6 million Disability Determinations transfer.		
Certificate of Need (CON)	495,200	
Total CHS	\$116,416,900	110,755,300
Total CFC and CHS	\$180,063,100	\$179,369,100

Most meetings included discussions/presentations related to the Medicaid program. Topics included were: eligible growth projections; the Medicaid Section 1115 waiver (Partnerships/Managed Care); Medicaid Partnership contracts; Unisys and reports availability; Fraud and Abuse; EPSDT (Early and Periodic Screening, Diagnosis, and Treatment); DSH payments to UK and UL; ACCESS, Behavioral Medicaid Waiver; CON long-term care beds and Medicaid's reimbursement rates; Physician/Dentists Medicaid settlement; Medicaid transportation waiver; KCHIP (Kentucky's Children's Health Insurance program); and Home and Community Based Waiver Services.

Other topics included: FY 1995-96 General Fund Lapses; FY 1996-97 Year-End Account Balances; Impact of Federal Welfare Reform changes on Disability Determinations cases, such as alcohol and drug disabilities; Social Worker positions; Social Services Block Grant (SSBG) and the DSS Budget Deficit; Family Preservation; Local Health Departments; Welfare Reform update; Commission for Handicapped Children's personnel cap; and Empower Kentucky.

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

The Budget Review Subcommittee on Justice, Corrections, and Judiciary met eight times during the 1996-97 Interim. The first subcommittee meeting was a joint meeting held with the Interim Joint Committee on Judiciary, for the purpose of preparing a report on the cost impact of House Bill 117, pertaining to Juvenile Justice. The remaining seven regular subcommittee meetings consisted of the following topics: staff overview of the FB 1996-98 Judicial Branch and Justice Cabinet Budgets; discussion of the Department of Juvenile Justice budget; Department of Corrections' inmate population and bed needs; Department of Corrections Restricted Agency Revenue accounts; current Division of Probation and Parole programs; alternatives to incarceration programs; potential FB 1998-2000 salary improvement plans, staffing level increases, and funding needs, and; review of flowcharts depicting statutory functions/processes within the Justice Cabinet. Discussions related to the Judicial Branch Budget included Restricted Agency Revenue accounts; use allowance payments, county court projects and cost overruns, fiscal impact of HB 117 on FB 1998-2000 funding needs; and views on current and/or proposed alternative sentencing practices in Kentucky.

The Department of Corrections consists of Corrections Management, Adult Institutions, Community Services and Local Facilities, and the Local Jail Support Program appropriation units. In the current biennium, 16 appropriation increase requests were approved in FY 1996-97 (\$841,500 in Restricted Funds and \$966,900 in Federal Funds), totaling \$1,808,400. In fiscal year 1997-98, 10 appropriation increase requests have been approved to date (\$140,000 in Restricted Funds and \$1,171,700 in Federal Funds) totaling \$1,311,700. These appropriations increase requests are summarized by appropriation unit below:

Department of Corrections

<u>Appropriation Unit</u>	<u>FY 1996-97</u>		<u>FY 1997-98</u>	
	<u>Restricted</u>	<u>Federal</u>	<u>Restrict ed</u>	<u>Federal</u>
Corrections Management	220,500	527,400	140,000	565,700
Number of AI Requests	(3)	(3)	(1)	(4)
Community Services and Local Facilities	150,000	86,800		172,800
Number of AI Requests	(1)	(3)		(2)
Adult Institutions	471,000	352,700		433,200
Number of AI Requests	(4)	(2)		(3)
Total By Fund Source	841,500	966,900	140,000	1,171,700
				0
Total No. of AI Requests By Fund Source	(8)	(8)	(1)	(9)

Justice Operations

Justice Operations consist of the Departments of Juvenile Justice, Criminal Justice Training, State Police and Justice Administration (Office of the Secretary). The following table summarizes the appropriation adjustments that were approved during the interim period to date:

Appropriation Unit	<u>FY 1996-97</u>		<u>FY 1997-98</u>	
	Restricted	Federal	Restricted	Federal
Justice Administration		1,193,000	778,100	7,000,000
Number of AI Requests		(2)	(2)	(1)
Department of Juvenile Justice				
Number of AI Requests				
State Police	1,583,000			
Number of AI Requests	(1)			
Department of Criminal Justice	596,000		1,392,200	
Training				
Number of AI Requests	(3)		(3)	
Total By Fund Source	2,179,000	1,193,000	2,170,300	7,000,000
Total No. of AI Requests By Fund Source	(4)	(2)	(5)	(1)

**Budget Review Subcommittee on
Transportation**

The Budget Review Subcommittee on Transportation met nine times during the 1996-97 interim. Discussion at these meetings centered around several topics. Included in those discussions were the cost to the Transportation Cabinet for flood damage to highways around the state and expenditures eligible for reimbursement from the Federal Emergency Management Administration. Other topics discussed were the status and content of the new federal highway bill, the source and uses of the revenues appropriated to the Transportation Cabinet, and the coordination of public transportation activities in Transportation and other governmental agencies. Lastly, the subcommittee reviewed the expenditures of the district offices and all maintenance activities. The status of the Six-Year Road Plan Information System was also reviewed by the subcommittee. The subcommittee reviewed and recommended for approval six appropriation increases in FY 1996-97, and five in FY 1997-98, to date. The following table summarizes those actions:

Fiscal Year 1996-97

<u>Appropriation Unit</u>	<u>Enacted</u>	<u>Revision</u>	<u>Revised Appropriation</u>
Vehicle Regulation			
Restricted	2,217,900	714,900	2,932,800
Highways			
Restricted	50,028,800	24,266,500	74,295,300
Federal	460,408,800	1,424,800	461,833,600
Air Transportation			
Federal	14,100	300,000	314,100

Fiscal Year 1997-98

<u>Appropriation Unit</u>	<u>Enacted</u>	<u>Revision</u>	<u>Revised Appropriation</u>
Highways			
Restricted	10,322,400	4,667,800	14,990,200
Federal	336,047,400	4,957,800	341,005,200
Road	505,706,500	10,361,300	516,067,800
Air Transportation			
Federal	14,300	281,600	267,300

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
BANKING AND INSURANCE**

**Sen. Dan Seum, Co-Chair
Rep. James Bruce, Co-Chair**

Sen. Charles Borders
Sen. Tom Buford
Sen. Paul Herron
Sen. Richard Roeding
Sen. Ernesto Scorsone
Sen. Elizabeth Tori
Rep. Sheldon Baugh
Rep. Brian Crall
Rep. Robert Damron
Rep. Charles Geveden
Rep. Porter Hatcher
Rep. Billy Polston
Rep. Arnold Simpson
Rep. James Zimmerman

Sen. Fred Bradley
Sen. Lindy Casebier
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Sen. Albert Robinson
 Sen. Tim Shaughnessy
Rep. John Adams
Rep. Stanton Cave
Rep. Ron Crimm
Rep. Herbie Deskins
Rep. James Gooch
Rep. Marshall Long
Rep. Steven Riggs
Rep. Roger Thomas

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

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON DEPARTMENT OF INSURANCE FEES

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Sen. Richard Roeding
Sen. Elizabeth Tori
Rep. Ron Crimm
Rep. James Gooch
Rep. Marshall Long

Sen. Dan Seum
Rep. Stan Cave
Rep. Robert Damron
Rep. Porter Hatcher, Jr.

Sen. Tom Buford, Ex-Officio
Rep. James Bruce, Ex-Officio

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

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

COMMITTEE ACTIVITY

The Interim Joint Committee on Banking and Insurance has held fourteen meetings during the 1996-97 Interim.

At its first meeting, held on August 27, 1996, the Committee discussed the status of health insurance with the Commissioner of the Department of Insurance. The Commissioner told the Committee that consumers had a very limited choice in the individual market, since only five carriers were offering individual policies. He said as of August 19, 1996, ten associations that had not previously offered group health insurance to members had applied for approval to offer group health insurance coverage to its members. The Commissioner noted that the association exemption in 96SB343 could erode some of the progress made under health care reform. He told the Committee that members of the Health Insurance Advisory Council were appointed on June 19, 1996. The Commissioner said that if the reforms under 94HB250 and 96SB343 were repealed and the provisions of the federal Health Insurance Portability and Accountability Act of 1996 were applicable in Kentucky, it would put the Kentucky health insurance market into a spin.

The Committee was addressed by the Commissioner of the Department of Financial Institutions at its meeting held in Louisville on September 9, 1996. The Commissioner provided an annual update on banking in Kentucky. The Commissioner said that of the 275 banks in the state, 204 are state-chartered. He said that since 1992, fourteen new banks have been chartered to operate in Kentucky; six of those were chartered in 1996. Two challenges facing the Department of Financial Institutions are interstate branching and protection of the viability of the state charter.

The Committee met on November 26, 1996 to discuss the regulation of insurance activities of banks in Kentucky. The Committee met with representatives of the banking and insurance industries and the commissioners of the departments of insurance and financial institutions. In March, 1996, the U.S. Supreme Court ruled that a federal law, which allows national banks in small towns of 5000 or fewer inhabitants to sell insurance,

supersedes a state law that prohibits such activity by banks. In August, 1996, the Commissioner of the Kentucky Department of Financial Institutions issued a parity letter that allows state-chartered banks to apply to the Commissioner of Insurance to engage in the insurance activities allowed national banks under federal law. In September, 1996, the Commissioner of the Department of Insurance issued an emergency administrative regulation to establish the procedure for application by banks to be licensed as insurance agents. At its November meeting, the Committee discussed changes in the administrative regulation being proposed by the Department of Insurance. Representatives of the insurance industry spoke in support of the emergency regulation without changes, stressed the need for regulation to remain at the state level, and expressed the need for stringent regulation to prevent tying arrangements. The banking industry told the Committee that the regulation protects consumers and competition, while resisting efforts to protect markets. It further testified that it is in everyone's ultimate best interests for banks to sell insurance and that the entry of banks into the insurance marketplace will result in lower rates and improved service.

The Committee met on February 25, 1997, and received from the Commissioner of Insurance a progress report on the two task forces reviewing the health insurance laws. The Commissioner also spoke about the financial condition of Kentucky Kare, as did the Deputy Secretary of the Personnel Cabinet and a representative of the Attorney General. Representatives of Anthem Blue Cross/Blue Shield and the Kentucky Hospital Association spoke on the decision by Anthem to reduce payments to hospitals. Representatives of the Kentucky Bankers Association, Accordia, and the Kentucky Home Builders Association spoke on health insurance reform. The Committee adopted a resolution requesting the Governor to call an Extraordinary Session of the General Assembly to consider health insurance issues facing Kentuckians.

On March 25, 1997, the Commissioner of Insurance discussed a regulation that set forth requirements for open enrollment held by health maintenance organizations. A representative of Farm Bureau, two Farm Bureau policyholders, and a spokesman for State Association of Life Underwriters addressed the need for health insurance reform. On April 22, 1997, the Attorney General spoke to the Committee about the selling of non-profit hospitals and patient protections. Representatives of the Kentucky Medical Association, Kentucky Hospital Association, and the Kentucky Pharmacists Association told the Committee they endorsed the proposals. A member of the Consumer Task Force spoke on her personal experiences as a purchaser of insurance. On May 20, 1997, the Commissioner of Insurance spoke on a regulation concerning health insurance data, and the Committee voted in approval of the regulation.

The Committee held its eighth meeting on June 24, 1997, and heard from a member of the Consumer Task Force for Individual Health Insurance. The Commissioner of Insurance spoke on a regulation that increased fees payable to the Department of Insurance. The Committee deferred action on the regulation. Representatives of Republic Bank and the Kentucky Bankers Association spoke on the State Treasurer's treatment of certificates of deposit as abandoned property. On July 15, 1997, the Subcommittee on

Department of Insurance Fees reported that the Commissioner of Insurance had appeared and withdrawn the regulation of fees. The Commissioner confirmed this action in an appearance before the Committee. A representative of Hamilton Mutual Insurance spoke on the changes needed in automobile insurance laws.

On August 26, 1997, the Committee discussed health insurance reform with representatives of the Industry Task Force on Health Insurance and the Consumer Task Force. At its September 8, 1997 meeting, held in Louisville, the Committee again discussed health insurance reform with representatives of the Kentucky Bankers Association and the Farm Bureau. The Committee also discussed with representatives of the Kentucky Bankers Association the State Treasurer's treatment of unclaimed property.

At its twelfth meeting of the interim, held on October 28, 1997, the Committee discussed no-fault motor vehicle insurance with a former Georgia Insurance Commissioner and the President-elect of the Kentucky Academy of Trial Attorneys. The Committee met on November 25, 1997, to discuss prefiled legislation pertaining to securities and check cashing, and held a final interim meeting in December.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
ECONOMIC DEVELOPMENT AND TOURISM**

**Senator Glenn Freeman, Co-Chair
Representative Tom Kerr, Co-Chair**

Rep. John Adams	Rep. Gross Lindsay
Rep. Royce W. Adams	Rep. Marshall Long
Rep. Scott Alexander	Rep. Thomas McKee
Rep. Woody Allen	Rep. Vernon Miniard
Rep. Eddie Ballard	Sen. Virgil Moore
Sen. Walter Blevins	Rep. Richard Murgatroyd
Sen. David Boswell	Rep. Lonnie Napier
Rep. Mike Bowling	Rep. Fred Nesler
Rep. Lawrence Brandstetter	Rep. Ruth Ann Palumbo
Rep. Kevin Bratcher	Rep. Thomas Pope
Rep. Dwight Butler	Rep. Marie Rader
Rep. Brian Crall	Rep. Chris Ratliff
Rep. Jesse Crenshaw	Rep. Steven Riggs
Rep. Drew Graham	Sen. Richie Sanders
Rep. H. Gippy Graham	Rep. William Scott
Rep. J.R. Gray	Sen. Tim Shaughnessy
Rep. Jodie Haydon	Rep. Katie Stine
Rep. Charlie Hoffman	Sen. Robert Stivers
Rep. Kathy Hogancamp	Rep. John Vincent
Rep. Dennis Horlander	Rep. Charles Walton
Sen. Bob Jackson	Sen. David Williams
Rep. Susan Johns	Sen. Gex Williams
Sen. Robert Leeper	

LRC STAFF: Mary Yaeger, CSA, John Buckner, Kim Wilson, Linda Kubala, and
Ellen Steinberg

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

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

COMMITTEE ACTIVITY

The Interim Joint Committee on Economic Development and Tourism held six meetings since the beginning of the 1996-97 Interim: one meeting in September 1996 and five meetings in 1997. The committee met fewer times this Interim, in part due to the chairs' and members' involvement in the three special sessions, particularly the workers' compensation special session, where the Senate combines the Economic Development and Labor committees.

Although the LRC created a Task Force on Economic Development as a subcommittee of the joint committee, the Task Force was not activated; instead all economic development matters were handled by the full committee.

During the Interim, the committee reviewed three reorganization plans: Executive Order 96-930, relating to the reorganization and establishment of the Division of Sales and Division of Security and Traffic Control, Kentucky State Fair Board; Resolution No. 96-1, a resolution of the Kentucky Economic Development Partnership, relating to the reorganization and establishment of the International Trade Division within the Department of Community Development, Cabinet for Economic Development; and Resolution No. 97-1, a resolution of the Kentucky Economic Development Partnership, relating to the reorganization and establishment of the Office of Coal County Development within the Office of the Secretary, Cabinet for Economic Development. The committee recommended confirmation of the first two reorganization orders by the 1998 Kentucky General Assembly and took no action on the third.

Signage

The issue of sufficient numbers of billboards alongside interstate corridors was a major subject of discussion during this interim. At the first meeting, September, 19, 1996, the Secretary of the Tourism Cabinet discussed the inadequacy of highway signage. The issue of insufficient outdoor advertising for tourism attraction was discussed at three more meetings throughout the interim. Concerned legislators noted that with the loss of manufacturing jobs, particularly in rural areas, tourism-related business is more important in providing jobs to Kentuckians.

Those representing the tourism-related businesses spoke to oppose existing state laws and regulations governing outdoor signage, which they find too restrictive. These speakers represented the Kentucky Tourism Council, the Bowling Green Convention and Visitors Bureau, the Kentucky Hotel/Motel Association, the Outdoor Advertising Association, and the West Kentucky Corporation.

The Department of Transportation representatives spoke at several meetings, pointing out that they must implement certain restrictions in regard to highways that are constructed and maintained with federal aid. Concerning the issue of losing federal highway funds, the committee asked a representative of the Federal Highway Administration to explain federal revenues owed Kentucky. The Right-of-Way Program Regional Manager explained that the federal government still owed Kentucky \$4.3 million, due to the implementation of the 1961 Bonus Act program, but that Congress has not allocated funds for this program since 1983.

A representative of Scenic America explained that the purpose of the billboard laws is to preserve and enhance the natural scenic beauty of our highways and that tourism has continued to prosper under existing restrictions. She supported alternatives to highway billboards, such as the Fifth Logo program sponsored by the state.

Additionally, the committee voted to request an Attorney General's opinion concerning the state's authority to control the content of billboard advertising. The Attorney General's response stated that it would be unconstitutional to regulate the content of billboard advertising. The state may not adopt regulations that tell the industry it can only have tourism related topics on them. They cited *Metromedia, Inc. v. City of San Diego* (453 US 490), which is a U.S. Supreme Court case addressing regulations that limit the types of speech that can be located on variable message signs. Specific safety considerations have to be shown before you can limit the types of speech that appear on billboards or other signs across the state. This opinion does not affect the state's logo signage that is on state right-of-way, nor does the opinion address whether the federal government could limit the content of signs within the federal right-of-way.

Finally, the committee reviewed the area of highways that might be considered for additional billboards under an amendment to the Bonus Act called the Cotton amendment.

The Regional Industrial Park Program

At the fifth interim meeting, the Secretary of the Economic Development Cabinet explained the Cabinet's newly implemented program, the Regional Industrial Park Program. This program is funded by the Local Government Economic Development Fund, which is made up of coal severance revenues that the state receives (a portion is returned to coal producing counties). As the law states, eligible industrial projects in the coal counties may be approved for funds off-setting the costs of the real estate and workforce training. Funds are allocated to a single county pool and to a multi-county pool. Participation in the Regional Industrial Park Project would require counties to expend their single county allotment before expending the multi-county funds. Coal counties were invited to join together to identify property that they would like to see developed and marketed. Nine proposals resulted from this effort, six from eastern Kentucky counties and three from western Kentucky counties.

While some legislators were supportive of this regional approach, other members expressed frustration that coal counties would be forced to use their allocation of coal severance funds but would not benefit from the industrial park, due to distance from the park. One suggested more local control in how the LGEDF program operates and how revenues are expended.

Other

The committee heard a presentation by the President of Keeneland Thoroughbred Association and the President and Publisher of the Lexington Herald-Leader concerning the desire to acquire the Calumet Trophies for the Kentucky Horse Park. The Committee passed a motion "to draft a resolution urging the Governor to research state government to find funding to purchase or temporarily provide funds to meet the courts' deadlines, so that the trophies could be purchased."

Presentations on programs within or sponsored by the Tourism Cabinet included: a progress report on the Cabinet's strategic planning effort and implementation of the 1996 Regular Session House Bill 815, an act creating a tourism business development incentive program; the procurement process for contracts at state parks, particularly the food service contract at the Kentucky Horse Park; a report by the legislative Task Force on Funding for Wildlife Conservation (HCR 76); and a presentation by the Program Review and Investigations' staff on the State Park Marinas.

Presentations were made on programs within or sponsored by the Cabinet for Economic Development, including: the establishment of a manufacturing networking program to assist small and medium sized companies to enter into collaborative efforts with other companies for the purpose of mutual problem solving; the Kentucky Technology Service, an independent service funded by the state and the federal government to assist small to medium sized businesses with problems of management, productivity and technological advances; the International Trade Office and collaboration

with the Department of Agriculture on the Mexican Trade Office; Growth Assessment Teams, and the target industry analysis and profiles, sponsored by the Cabinet and the Kentucky Industrial Development Council.

Other agenda items included a presentation by Governor Paul Patton on his postsecondary education plan as part of the May, 1997, Special Session on Higher Education; a welfare reform update by the Cabinets for Workforce Development and Economic Development; a report by the Commissioner of the Department of Agriculture and the Executive Director of the Office for Agricultural Marketing and Product Promotion; and a report of the USDA National Commission on Small Farms, by the Kentucky member, who emphasized the need for sustaining Kentucky communities.

The prefiled bill drafts are:

- 98 RS BR 221, which creates the Kentucky Investment Fund that authorizes tax credits for individual investors in privately operated venture capital funds; and
- 98 RS BR 35, which allows those very poor rural counties whose unemployment figures do not adequately represent the real level of unemployment to be eligible for the Kentucky Rural Economic Development Authority program.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
EDUCATION**

**Senator Lindy Casebier, Co-Chair
Senator Tim Shaughnessy, Co-Chair
Representative Freed Curd, Co-Chair**

Rep. Scott Alexander	Rep. Harry Moberly, Jr.
Sen. Benny Ray Bailey	Rep. Richard Murgatroyd
Rep. Joe Barrows	Sen. Gerald Neal
Rep. Joe Clarke	Rep. Frank Rasche
Rep. Jack Coleman	Rep. Tom Riner
Rep. Barbara Colter	Sen. Ernesto Scorsone
Rep. H. "Gippy" Graham	Rep. Charles Siler
Sen. Ernie Harris	Rep. Dottie Sims
Sen. Nick Kafoglis	Rep. Kathy Stein
Sen. David Karem	Sen. Robert Stivers
Rep. Tom Kerr	Rep. Mark Treesh
Rep. Mary Lou Marzian	Rep. Charles Walton
Sen. Vernon McGaha	Sen. Jack Westwood
Rep. Vernon Miniard	Sen. Gex Williams

LRC STAFF: Sandra Deaton, Ethel Alston, Bonnie Brinly, Audrey Carr,
Penny Dutton, and Lora Hawkins.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON GOVERNANCE AND FINANCE

Sen. Gerald Neal, Co-Chair

Rep. Joe Clarke, Co-Chair

Rep. Joe Barrows

Rep. Jack Coleman

Sen. Ernie Harris

Rep. Vernon Miniard

Rep. Richard Murgatroyd

Rep. Mark Treesh

Senator Lindy Casebier, Ex-Officio

Senator Tim Shaughnessy, Ex-Officio

Representative Freed Curd, Ex Officio

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

Sen. Ernesto Scorsone, Co-Chair

Rep. Mary Lou Marzian, Co-Chair

Rep. Scott Alexander

Sen. Benny Ray Bailey

Rep. Tom Riner

Rep. Charles Siler

Rep. Dottie Sims

Rep. Kathy Stein

Sen. Robert Stivers

Rep. Charles Walton

Sen. Gex Williams

Senator Lindy Casebier, Ex-Officio

Senator Tim Shaughnessy, Ex-Officio

Representative Freed Curd, Ex-Officio

SUBCOMMITTEE ON STUDENTS AND CURRICULUM

Sen. David Karem, Co-Chair

Rep. Frank Rasche, Co-Chair

Rep. Barbara Colter

Rep. H. "Gippy" Graham

Sen. Nick Kafoglis

Rep. Tom Kerr

Sen. Vernon McGaha

Rep. Harry Moberly

Sen. Jack Westwood

Senator Lindy Casebier, Ex-Officio

Senator Tim Shaughnessy, Ex-Officio

Representative Freed Curd, Ex Officio

INTERIM JOINT COMMITTEE ON EDUCATION

JURISDICTION: Matters pertaining to elementary, secondary and postsecondary education; the Kentucky Board of Education; the Department of Education; the powers and duties of local boards of education; 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 Postsecondary Education; the Education, Arts and Humanities Cabinet; the Education Professional Standards Board; the Kentucky Board of Education; the Kentucky Community and Technical College System Board; the Kentucky Higher Education Assistance Authority; the Kentucky Institute for Education Research Board; the Office of Education Accountability; the School Facilities Construction Commission; and the Workforce Development Cabinet.

COMMITTEE ACTIVITY

During the 1996-97 interim, the Joint Committee on Education held twelve meetings prior to October 31, 1997. With the approval of the Legislative Research Commission, it met in November and December, primarily to receive the final reports of the Task Force on Public Education and the Task Force on Developmental Learning Programs at Jefferson Community College for the University of Louisville.

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 an overview, a report of the 1996 Kentucky School and district accountability results, the removal of the performance events from the accountability index, and the Office of Education Accountability's review of the contract to provide the performance events; the 1996 National Education Summit; school-based decision making; the Kentucky Education Technology System; adult literacy in Kentucky; classified employees' retirement benefits; minimum high school graduation requirements; exceptional children's programs; the Support Education Excellence in Kentucky (SEEK); the School Facilities Construction Commission; the Commonwealth Institute for Parent Leadership; school safety; and reports of the Task Force on

Postsecondary Education, the Task Force on Public Education, and the Task Force on Developmental Learning Programs at Jefferson Community College for the University of Louisville.

As a result of its review of the removal of the performance events from the accountability index, the committee requested the Office of Education Accountability and the Cabinet for Finance and Administration to review the performance of Advanced Systems in Measurement and Evaluation, Inc., to determine whether the company had met the requirements of the contract to provide performance events for the Kentucky Instructional Results Information System. As a result of their review, the agency representatives recommended that a more thorough management audit be conducted. The committee agreed to request LRC to issue a request for proposals to secure a firm to conduct a management audit of the contract.

A two-day meeting was held prior to the 1997 Special Session of the General Assembly on postsecondary education to review the work of the Task Force on Postsecondary Education and to review "An Agenda for the 21st Century: A Plan for Postsecondary Education."

In performing its statutory legislative oversight responsibilities, the Committee reviewed 60 administrative regulations under the review process established in KRS Chapter 13A. All the administrative regulations were approved.

Subcommittee on Governance and Finance

The Subcommittee on Governance and Finance conducted six meetings during the 1996-97 Interim and considered the following issues.

Rewards and Sanctions

Representatives of the Kentucky Department of Education, the Kentucky Education Association, the Kentucky Education Support Personnel Association, the Kentucky Association of School Administrators, and the Kentucky School Boards Association appeared before the subcommittee to discuss the rewards and sanctions for successful schools in Kentucky's system of accountability.

Most agreed that rewards and sanctions are the most visible signal of the General Assembly's commitment to the accountability system, but teachers have not been motivated by cash rewards. Cash rewards are viewed as divisive and as jeopardizing the goals that certified and classified staff work to achieve. It was suggested that rewards can be made more effective by addressing three questions: 1) Who should vote on the disbursement of rewards; those faculty currently employed or those who were employed during the years the reward was earned? 2) Should classified staff be included in the decision making process? and 3) How should the cash reward be spent?

The KEA adopted the position that rewards as a motivator for improved instruction is an inappropriate use of money and suggested the allocation should be used to fund two additional professional development days for each educator.

Transportation

Department of Education staff reported that approximately 9,000 school buses transport 450,000 students each day and cover 102 million miles annually. In 1996-97, \$180 million was spent on transportation. The state reimbursement to local school districts was about \$161 million and local school districts contributed \$18 to \$20 million.

A representative of the Transportation Cabinet reported on the reimbursement program for transporting nonpublic school students. The General Assembly appropriated \$2 million to reimburse county fiscal courts that fund transportation of nonpublic school students. Funding was prorated among the 20 participating counties and reimbursements ranged from \$4,400 in Union County to \$419,000 in Jefferson County.

Home Schools and Pupil Attendance

Representatives of the home school associations and the directors of pupil personnel formed a task force in March, 1997. The task force developed a draft document entitled, "Home School Information Packet" that details the roles of the Kentucky Department of Education (KDE) and the Director of Pupil Personnel, and provides guidelines for home school verification, resources, and record keeping techniques. The task force believes there is no need for legislation if the document is followed and cooperation and understanding is improved. In 1995, the KDE reported 4,533 home schoolers in Kentucky and in 1996, 7313 students.

The panel made the following suggestions for dropout prevention: repeal the provision in KRS 159.010 requiring 60 days notice before withdrawal from school; achieve more consistent resolution of cases by the judicial system with meetings of school directors of pupil personnel and judges; increase the mandatory age of attendance to seventeen or eighteen; support multi-district alternative schools and vocational schools; provide day treatment programs and job skills for students; provide child care for teenage mothers in high school or alternative schools; and provide early intervention in the primary grades.

Secondary Area Vocational and Education Technology Centers

With the establishment of the Workforce Development Cabinet in 1990, the state operated vocational education system, including all secondary and postsecondary institutions, was moved under the governance of the State Board for Adult and Technical Education. During the 1997 Special Session of the General Assembly on postsecondary education, the postsecondary institutions were moved to the Kentucky Community and Technical College System.

The mission of the 54 area centers is primarily to serve high school students. With full-time enrollment at 6,100, over thirty programs are offered in the area centers, with the average of six to seven programs at each center. One hundred thirty-eight local school districts send students to the centers. For fiscal year 1998, \$33,349,730 has been budgeted, with the appropriations from SEEK and state general fund dollars equaling about \$15,000,000 each.

Resource people testified that area vocational education centers must be given a clear mission, an operational structure and adequate resources; area centers should offer a quicker response to the needs of business and industry; and there are inequities in salaries between area vocational education faculty and local school district faculty. All agreed that committed and talented administrators are critical to the success of an area vocational center.

A representative of the Department of Education urged the subcommittee to look at the inequity in funding between the locally operated schools and the state operated centers. He also recommended that: local accountability should be established through a local board, and should be based on measurable factors; and an annual performance report should be prepared. Effective linkages between the high schools and the area technology centers include the alignment of the curriculum, developing individual graduation plans; joint professional development and the expansion of opportunities for equal access and enrollment.

Subcommittee on Postsecondary Education and the Teaching Profession

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

Postsecondary Education

The subcommittee heard an in-depth presentation by a member of the Task Force on Postsecondary Education regarding the Governor's plan for postsecondary education. He described the processes used by the task force in fact finding and developing recommendations; shared recommendations from the consultants, the special interest groups, and the public; and highlighted the topics in the final report, *Postsecondary Education in Kentucky-An Assessment*, which included the following: Educational Attainment, Economic Opportunity and Kentucky's Future, A Postsecondary Education System Unprepared for the Next Century, Barriers to Excellence, and Reform Goals for Kentucky's Postsecondary Education System.

The subcommittee also heard from staff of the Council on Higher Education regarding performance funding for higher education institutions and information from the accountability reports for 1996-97.

Student Loan Programs

Staff representing the Kentucky Higher Education Assistance Authority (KHEAA) and the Kentucky Higher Education Student Loan Corporation (KHESLC) gave a status report of the loan program and future legislative needs. Since 1978, KHEAA has insured over 926,000 loans for nearly \$2.3 billion and has distributed \$238 million in grants, \$7 million in work study funds, and \$21 million in other financial aid, at no cost to the general fund. KHEAA employs approximately 200 people and their salaries and benefits are paid at no cost to the general fund. Kentucky is unlike other states in that it has not lost loan value. However to insure its continued competitiveness, a consultant to KHEAA advised the subcommittee that he sees three options for Kentucky to operate KHEAA, which include: (1) Keeping it as a state agency; (2) Changing it to a non-profit 501c(3) organization; or (3) Changing it to a municipal corporation. KHEAA will be requesting that the 1998 General Assembly change it to a municipal corporation and political subdivision in order to provide the flexibility needed. Staff also reported that the Kentucky National Guard Tuition Program had been implemented and would likely request additional funds in 1998; and the Teacher Scholarship Program required by HB 152 had been modified as required.

Education Professional Standards Board

Staff representing the Education Professional Standards Board (EPSB) presented information regarding alternative certification programs relating to HB 194 and HB 327(1996); implementation of HB 305 (1996), relating to options for renewing teaching certificates and changing ranks; and the development of a proposed structure for the Educational Professional Standards Board. The administrative regulations to implement HB 194 were promulgated, effective May 12, 1997, allowing a candidate who holds a master's degree or a doctoral degree in a specific content area with at least five years of teaching experience in a regionally or nationally accredited institution of higher education, and who has successfully completed the teacher internship program, to be awarded certification at the secondary level in the specific content area. While there had been numerous inquiries about the application process, only three people had applied for certification. The staff reported that progress towards the implementation of HB 305 had been limited, although there were task groups assigned specific duties in the development process. Administrative regulations had not been adopted, but work was in progress and they expected to have a pilot in place in 1997-98.

Staff presented information regarding the alternative certification programs that are designed to attract persons to the teaching profession. There are currently programs between Fayette County and the University of Kentucky; Jefferson County and the University of Louisville and Kentucky State University; and Northern Kentucky University and Covington Independent. A concern still exists that the alternative programs are too much like the regular programs, as they take eighteen months to two years to complete, require persons to have baccalaureate degrees, and a 2.5 grade point average is required for admission.

Staff reported on the successful minority recruitment and retention efforts since 1992, including the teacher scholarship program and the Troops to Teachers program. The number of minority student graduates in teacher education has grown from 25 in 1992-93 to 226 in 1996-97. During 1992-93, there were only 2% minorities enrolled in teacher education, as compared to the 8% minority population in college. There are currently 996 minority students enrolled in teacher education. The scholarship program, which is funded at \$500,000 for each year of the biennium, has dramatically aided students. Of the 500 scholarships that have been given, 140 recipients are currently employed in Kentucky, and almost all others are still in the program. The agency will be requesting an increase in funding for the scholarship program in 1998.

The Education Professional Standards Board staff reported that the board will be seeking legislation in 1998 to separate from the Kentucky Department of Education all operations and management, with the exception of the Division on Minority Educator Recruitment and Retention.

Professional Development

Representatives from the Department of Education gave a status report of professional development programs and initiatives. According to survey data, professional development is more relevant and better meets teachers' needs than the experiences the teachers had before 1990. Current funding levels are adequate and need to be maintained, but efforts still need to be made to address the time issues for teachers, in order for them to participate in planning and learning with other teachers in their schools, for improvement activities, and to meet long-term goals. Teachers and administrators need flexibility to determine professional development based on their specific needs. There remains concern on how to provide quality assurances and to assist schools in being better consumers of professional development.

Staff reported that the regional service centers (RSCs) have continued to expand their assistance to local schools and districts and have made a concerted effort in 1996-97 to assist schools in the "improving" category with planning and improvement activities. It appears that local education cooperatives, with some exceptions, have scaled back their professional development efforts, and districts are utilizing the regional service center resources more. A review of the career paths of teachers on loan from local districts shows that the RSCs are serving as a leadership development system, as the majority of the teachers are returning to districts in leadership positions or assuming distinguished educator roles.

Tenure

The sponsor of prefiled legislation relating to post-tenure reviews provided an overview to the subcommittee of his reasons for suggesting legislation that requires post-tenure reviews. Representatives from seven public universities, the community college

system, and the faculty unions representing the community colleges and KY Tech postsecondary schools described their systems of tenure and presented their views on the proposed post-tenure review legislation. Most institutions are currently reviewing their existing tenure systems, and a few are considering including processes for post-tenure reviews beyond the current annual reviews. The institutions do not believe any legislation that would require a prescribed process of post-tenure review is appropriate. All agreed that quality teaching, service, and research are important to their profession, but that each institution has its own unique mission and priorities. Evaluation and tenure processes should reflect the institutions' uniqueness. They share the belief that tenure provides protection for assuring academic freedom.

Subcommittee on Students and Curriculum

The Subcommittee on Students and Curriculum met seven times this interim to consider the following issues:

Assessment and Accountability

The subcommittee considered several topics relating to the assessment and accountability system, including the mathematics portfolio, commercially available tests for measuring student achievement, the 1996-97 CTBS-5 results, and the distinguished educators program.

Mathematics Portfolio

Kentucky Department of Education staff and a member of the Mathematics Advisory Committee reviewed the mathematics portfolio initiative. The 1996 General Assembly included budget language to exclude the mathematics portfolio scores in calculating the accountability index this biennium. The budget language also called for changes to decrease the amount of time involved for teachers and students.

The Mathematics Advisory Committee, made up of 50 teachers, is redefining the scope of the mathematics portfolio to emphasize problem solving and mathematical communication, reviewing different ways of implementing the portfolio, and creating a new scoring guide. The development of the revised portfolio has included three phases. Phase I involved an expert group of 75 teacher volunteers who analyzed their students' work as evidence of problem solving. Phase II included a group of 249 teachers who collected short portfolios in their classrooms. Phase III, the 1997-98 school year, provides everyone with the opportunity to learn the new system by selecting or developing portfolio tasks and using the new portfolio scoring guide.

Achievement Tests

A College of Education professor from the University of Kentucky summarized information about four commercially-available achievement tests. He advised that there are no shelf tests currently assessing everything Kentucky has identified for its students to

know and be able to do. Each measures reading, language, mathematics, science, and social studies at various grade levels and provides national normative data. The testing companies are integrating open-response items in their assessments or including open-response items as a separate component that may be added. Some companies are now providing performance events. These tests do not assess students in the arts and humanities or practical living skills subject areas, as currently required by statute, and make limited accommodations for students with disabilities.

Staff from the Department of Education's Office of Curriculum, Assessment, and Accountability Services presented the results from the 1996-97 Comprehensive Test of Basic Skills (CTBS-5), a standardized test for reading, language arts, and mathematics, administered to students at the end of the primary program, and grades 6 and 9. Kentucky includes 98% of its students in the assessment, a higher percentage than most states. Students scored at, or close to, the 50th percentile for all three grade levels. They scored slightly lower than the national average in grade 9 mathematics.

The Distinguished Educator Program

The subcommittee heard a status report on the distinguished educator program from Department of Education staff and two distinguished educators. Through this initiative, Kentucky's most talented certified educators are identified for recognition through a detailed screening process. In addition, those selected must be willing to work in schools categorized as "in decline" or "in crisis" based on student performance on the state assessment and other school goals.

The 1996 General Assembly made several changes in the program in the budget bill: decreased the salary supplement for distinguished educators assigned to a school from 50% to 35%; excluded the salary supplement for retirement purposes, and limited the distinguished educator assignment to two years. Last biennium, 46 distinguished educators were assigned to the 53 schools designated as "in decline." The accountability results for the schools in the program last biennium indicate that 100% of these schools reversed the decline in student performance and 66% of the schools earned rewards for their improvement. This biennium, the distinguished educators' workload has increased dramatically, as the number of schools requiring services increased from 53 to 190, nine of which are "in crisis." Sufficient funding is appropriated this biennium to employ 41 distinguished educators; an additional eight will be hired using federal funds.

The Department of Education recommended the following actions to address the program's current needs and to assist in recruitment efforts: fund additional distinguished educator positions for the remainder of the biennium, waive the two-year limitation for distinguished educator service to provide program continuity; and include the 35% supplement for retirement purposes.

High School Graduation Requirements

Department of Education staff reviewed activities related to high school graduation requirements over the past six years and outlined the recommendations of the Commission on High School Graduation Requirements.

In 1990, the General Assembly directed the Kentucky Board of Education to review graduation requirements in light of the expected outcomes for students and schools set forth in the law. In 1992, the Department of Education established a 51-member Task Force on High School Restructuring to recommend strategies for improving high school education and aligning graduation requirements. The task force recommended five core components for high school graduation: an individual graduation plan, an integrated academic profile, school sponsored and approved activities, a culminating project, and an exit review. The state board funded pilot projects in 68 high schools to study the effects of implementing the core components. Universities also considered using the proposed requirements for student admissions purposes.

In 1995, the department began a five-month series of 41 focus groups and eight regional forums to review changes to the requirements. During March 1996, the Commissioner of Education established the Commission on High School Graduation Requirements, which submitted its recommendations to the state board in August. Educators, stakeholders, and the public were asked to respond to the recommendations. Based on this work, the Kentucky Board of Education will require the class of 2002 to have an additional unit of mathematics and science, and a unit of visual and performing arts. A total of 22 credits will be required, which includes one less elective.

Students Dropping Out of High School

Department of Education staff reviewed student dropout data and programs designed to deter the problem. The data, beginning with the 1991-92 school year through the 1994-95 school year, show that the high school dropout rate is increasing. The national dropout rate for high school students is 4.6 percent, with rates ranging from 2.3 percent to 10.2 percent, and Kentucky is at the median. Data for the 1995-96 school year indicate that 41% of the students with disabilities drop out of school, and the rates have continued to climb over the last few years.

Forty dropout prevention programs have been implemented in the 1996-97 school year, with a state appropriation of more than \$476,000. Other programs addressing the problem include extended school services, the no pass/no drive law, alternative education, service learning, the Advancement Via Individual Determination program, Jobs for Kentucky Graduates, teen parent programs, and preschool education. The department has advised districts about two successful intervention programs for students with disabilities, the Kentucky Community Based Work Transition Program and Technical Liaison Coordination. The department has also formed a task force to address the problem.

Remedial Services at Postsecondary Institutions

Staff from the Council on Higher Education, the Department for Technical Education, and the Director of Specials Programs for the Lexington Kentucky TECH campus appeared to report on remedial education at Kentucky's postsecondary institutions.

In 1995, approximately 33 percent of the university students took a remedial math course, compared to 72 percent of the community college students. For remedial English instruction, 16 percent of the university students took a remedial English course, a rate identical to the previous year, and 12 percent of the community college students took a remedial course, up two percentage points from the previous year. The remedial pass rates for math are significantly below the pass rates for remedial English, and public university students who take remedial courses, whether English or math, pass their remedial courses at significantly higher rates than community college students. Nearly 90 percent of the students in the Kentucky TECH system successfully complete remediation instruction and pass their program.

Remedial instruction has been self-supporting at universities, but not at the community colleges. In 1994-95, the cost was \$5.3 million; tuition revenue generated \$3.8 million and state general funds \$1.4 million. The higher education funding formula also generates funds for remedial students.

Kentucky is one of only four states in the South that do not have a statewide admissions policy for placing students into remedial classes at the university and community college levels. The Workforce Development Cabinet technical schools require students who demonstrate low reading and mathematics proficiency on either the Test of Adult Basic Education (TABE), or the ACT to take remediation courses.

Local District Initiatives

The Superintendent of Jefferson County Public Schools discussed the district's proposal for grade entrance and exit criteria, an initiative designed to guarantee that all students reach at least a fundamental level of academic achievement in reading, writing, and mathematics. The district will develop a profile for each student, indicating achievement needs based on diagnostic and exit tests, which will follow the student if he or she transfers to another school. Schools will develop intervention strategies in age-appropriate settings for students who fail to achieve the minimum competency necessary for the next level of school work.

Representatives from the Jessamine County Schools reported on different ways the district provides instruction for students. The district would like to provide part of the required 1,050 hours of instruction for students outside the normal six-hour school day and then be held accountable for student competency and improved student performance. The state funding formula does not consider some of these activities instructional for funding purposes. For example, instruction during lunch for kindergarten students does

not qualify as instructional time, nor does computerized, programmed instruction for home-bound students. They support increased funding flexibility.

The Kentucky Education Technology System

Department of Education staff reported on the status of the Kentucky Education Technology System. All 176 school district offices are now directly connected to the state's information highway, use a standard set of office and communication devices, participate in the statewide electronic mail system, have unlimited access to the internet, and have implemented the statewide financial management system.

From 1992 to 1997, \$276.5 million in state and local funds has been allocated for the implementation of the technology master plan: \$79.5 million from both the state and local districts for the matching program, \$74 million in local funds above the match, and \$43.5 million for the state level expenditure. Of the current \$20 million annual appropriation, approximately \$12 million is allocated to school districts for the matching program. The total cost of implementing the plan in 1993 was estimated at \$560 million, which was revised in 1996 to slightly over \$522 million.

The district administrative system (MUNIS) has been installed in all 176 school districts; 160 districts will close their books using the system. Implementation of the system was complicated by the accompanying change in the chart of accounts. Professional development for using technology continues to be a statewide need.

The Kentucky Leadership Academy

The Department of Education and two participants in the Kentucky Leadership Academy discussed the program. The academy provides an adapted form of the distinguished educator training for teams made up of principals and central office staff from school districts. Several university faculty and consortia representatives are also participating. The purpose is to provide professional development on best educational practices for improved student achievement.

The teams, consisting primarily of three members, are organized geographically into nine cadres of approximately 35 participants, with a facilitator. The typical training day is anywhere from 10 to 11 hours a day for 30 days during a two-year period. The registration cost is \$2,000 per participant, or about \$67 per day. Registration fees cover 75 percent of the costs and the state is supporting 25 percent of the cost. Currently, 100 districts are participating.

SR 105 Study Recommendations Relating to Student Residency

Department of Education staff presented the recommendations of the Task Force on Student Residency, established in response to 1996 SR 105. The recommendations include additional reimbursement for excess cost incurred by districts serving students

placed by their parents in noneducational facilities outside the parent's resident district, the creation of a review board to evaluate the accessibility of necessary services in a community prior to licensing or expanding residential facilities, and additional funding for the Kentucky Education Collaborative for State Agency Children.

Prefiled Legislation

The subcommittee recommended that the interim committee consider the following prefiled bills: 98 RS BR 23 - AN ACT relating to high school athletics, and 98 RS BR 218 - AN ACT relating to school-based decision making councils.

**REPORT OF THE 1996-97
SPECIAL SUBCOMMITTEE ON ENERGY**

Representative James Gooch, Chair

Rep. Royce Adams	Rep. Jim Lovell
Rep. Eddie Ballard	Sen. McGaha
Sen. Charlie Borders	Sen. Barry Metcalf
Sen. David Boswell	Sen. Kim Nelson
Rep. Dwight Butler	Sen. Joey Pendleton
Rep. Bob DeWeese	Rep. Chris Ratliff
Rep. Drew Graham	Rep. Katie Stine
Rep. J.R. Gray	Rep. John Vincent
Sen. Paul Herron	Rep. Charlie Walton
Rep. Tom Kerr	Rep. Brent Yonts

LRC STAFF: Linda Kubala, Tanya Monsanto, and Terisa Roland

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 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 Subcommittee met ten times through October and will hold an additional meeting in November, to continue to take public testimony about electric utility restructuring and retail competition.

Electric Utilities

In September 1996, electric utilities updated the subcommittee on their plans to reduce emissions of both SO₂ and NO_X in compliance with Phase I and II of the Clean Air Act. Utilities expressed unanimity in their capacity to comply with both Phase I and II requirements. To reduce SO₂ emissions, utilities have combined the installation of new scrubbers with the switch to coal with lower sulfur content. To reduce NO_X emissions, utilities have opted to install low NO_X burners.

Concern was expressed over the possible effect of stiffer NO_X reduction standards that may be adopted as a result of negotiations between Midwestern, Southern, and Northeastern states to reduce the transport of ozone from the former to the latter. In September 1996 the subcommittee heard testimony related to these negotiations, and in November 1997, the subcommittee will receive an update on the outcome of the negotiations and recent suits brought against Kentucky by eight Northeastern states under Section 126 of the Clean Air Act.

Restructuring of electric utilities was the focus of several meetings during the interim. In April 1997, the Public Service Commission reported to the subcommittee on the changes in federal laws and regulations that have deregulated wholesale electric power markets, and moves in some states towards competition in retail markets. In June 1997, executives from LG&E Corporation and Kentucky Utilities Corporation briefed the members on the proposed merger between the companies.

Competition and restructuring in the electric industry was addressed again in a two-day meeting of the subcommittee in September 1997. Subcommittee members were briefed by experts from the National Council of State Legislators, the Federal Energy Regulatory Commission, the state Public Service Commission, state legislators from Montana and Illinois, and others on the effect of restructuring on both electric rates and

on economic development. In October 1997, the subcommittee took testimony from parties interested in the issues; the time was not sufficient to hear all who wished to speak, so the subcommittee continued its public hearing in November. In October 1997, the authors reported on a study commissioned by Kentucky's four investor-owned electric utilities on the probable effect of retail competition on both the price and consumption of electricity in the state.

Coal

The Subcommittee's only out-of-town meeting of the Interim was held in Western Kentucky, where members toured an underground mine, surface mine and related facilities in Webster and Hopkins Counties. At that meeting, members also visited the coal-fired electric plants clustered near Sebree, and were briefed by several coal and utility executives.

In June 1997, the Executive Director of the Office of Coal Marketing and Export reported on the outlook for Kentucky's coal industry. Kentucky's coal industry lost market share in both coal production and coal sales over the past several years. This loss is attributed to a combination of reduced demand for low sulfur coal and strong competition from Western states like Montana and Wyoming. Some in the industry promote adoption of coal production incentives, such as thin seam and reclamation credits against coal severance tax, to improve Kentucky's position in the regional coal market. The subcommittee evaluated the relationship between proposed retail competition in Kentucky's electric power markets and imports of low-sulfur coal from Western states into Kentucky's market. In meetings primarily dealing with electric utilities, in September 1996 and 1997, the effects of retail electric competition and changes in clean air restrictions on the coal industry also were addressed.

Energy Efficiency in State Facilities

Energy efficiency in public buildings has been of interest to the subcommittee, and in February 1997, representatives of the Department of Facilities Management and the Division of Energy briefed members on the implementation of HB 264, which established an energy efficiency program for state buildings. This bill encourages the state to engage in energy performance contracting to finance energy savings measures through reduced energy bills, but this financing had not yet been used. The state is implementing low-cost measures in several buildings. Related bills HB 655 and SB 157, more applicable to local than to state government facilities also were discussed.

Low-Income Home Energy Assistance Program

As the 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. Federal funds available for the

program have continued to decline, and supplemental money in the Oil Overcharge Trust Fund will be depleted in 1998. During the February 1997 and the June 1997 meetings, concerns surfaced over the slow reimbursement by Community Action agencies of vendors who distribute fuel oils or gas to LIHEAP recipients. In June 1997, the subcommittee wrote a letter to the Department for Social Insurance expressing concern with the slow reimbursement process.

During the interim, the Special Subcommittee on Energy reviewed and reported to the LRC the LIHEAP Block Grant plans for FY 96-97 and FY 97-98. Total funding for LIHEAP was \$15.8 million for FY 96-97 and \$15.7 million for FY 97-98. For the FY 97-98 plan, the Department of Social Insurance loosened its eligibility requirements for crisis assistance so that clients could apply for and receive help before they actually were disconnected or ran out of fuel.

Telecommunications

In March 1997, the subcommittee heard testimony related to problems with Kentucky's emergency 9-1-1 service, and considered the possibility of using a 3-1-1 line for non-emergency calls. Representatives from 9-1-1 dispatch centers and the State Police described regional coordination projects and brought up several issues in 9-1-1 service, as well as updating members on the status of 9-1-1 service in Kentucky's localities.

At the same meeting, representatives from the Office of the Attorney General and the Public Service Commission informed the subcommittee about the types and targets of telemarketing abuses and ways that their offices have responded. Concern was raised about the inability to use caller ID to identify some telemarketers, and suggestions were made regarding the need for new legislation in this area. The speakers left several "hotline" numbers that consumers can use to complain about telemarketers, remove their name from caller lists, or check whether callers are properly registered.

Other Actions

The Subcommittee did not take up any prefiled bills during the interim.

The subcommittee reviewed and approved two administrative regulations promulgated by the Public Service Commission:

- 807 KAR 5:026, relating to gas service; and
- 807 KAR 5:062, relating to changing primary interexchange (long-distance) carriers.

In September, 1997, the subcommittee reviewed but took no action on Executive Orders 97-1114 and 97-1037, which reorganized parts of the Public Service Commission. The orders abolish the Docket Control Section, the Consumer Services Branch, and the Division of Rates and Research, and create a Division of Financial Analysis, a Division of

Research, a Division of Consumer Services, and a Division of Filings, with separate branches for Docket, Tariff Review, Annual Report, Electronic Filing, and GIS.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE**

**Senator Gerald Neal, Co-Chair
Representative Tom Burch, Co-Chair**

Sen. Walter Blevins
Sen. Paul Herron
Sen. Tim Philpot
Sen. John "Eck" Rose
Sen. Dan Seum
Rep. John Arnold
Rep. Bob Damron
Rep. Jim Gooch
Rep. Jeff Hoover
Rep. Eleanor Jordan
Rep. Paul Mason
Rep. Steve Nunn
Rep. Kathy Stein

Sen. Tom Buford
Sen. Joey Pendleton
Sen. Dick Roeding
Sen. Julie Rose
Sen. Jack Westwood
Rep. Perry Clark
Rep. Bob DeWeese
Rep. Bob Heleringer
Rep. Susan Johns
Rep. Mary Lou Marzian
Rep. Vernon Miniard
Rep. Ruth Ann Palumbo
Rep. Katie Stine

LRC Staff: Dianna McClure, Laura Hendrix, Jare Schneider, Susan Warfield, Murray Wood, DeeAnn Wenk, Gina Rigsby and Cindy Broaddus

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON FAMILIES AND CHILDREN

Representative Tom Burch, Chair
Representative Eleanor Jordan, Vice-Chair
Representative Mary Lou Marzian, Vice-Chair

Rep. Bob DeWeese
Rep. Ruth Ann Palumbo
Sen. Paul Herron
Sen. Dick Roeding

Rep. Steve Nunn
Rep. Kathy Stein
Sen. Joey Pendleton

Senator Gerald Neal, Ex-Officio Member

SUBCOMMITTEE ON HEALTH CARE ACCESS AND COST OVERSIGHT

Senator Julie Rose, Chair
Senator Jack Westwood, Vice-Chair

Sen. Tom Buford
Sen. Joey Pendleton
Rep. John Arnold
Rep. Bob Damron
Rep. Bob Heleringer
Rep. Vernon Miniard

Sen. Paul Herron
Sen. Tim Philpot
Rep. Perry Clark
Rep. Jim Gooch
Rep. Jeff Hoover
Rep. Katie Stine

Senator Gerald Neal, Ex-Officio Member
Representative Tom Burch, Ex-Officio Member

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

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

COMMITTEE ACTIVITY

The Interim Joint Committee on Health and Welfare held fifteen meetings through October, 1997. The committee requested and was granted authorization to create the following two subcommittees:

Families and Children Health Care Access and Cost Oversight

The committee was referred one hundred fifty-seven administrative regulations for review and consideration. The committee found 900 KAR 6:040E, relating to health facility and health services licensure hearings, deficient. The following regulations were amended by the agency at the committee's request: 902 KAR 17:040, relating to data reporting by health care providers; 904 KAR 2:001, definitions for child support; 904 KAR 2:380, relating to Child Support Enforcement Program application process; 904 KAR 2:390, relating to Child Support Enforcement Program paternity; 904 KAR 2:400, relating to establishment, review and modification of child support and medical support orders; and 907 1:705, relating to the Kentucky Health Care Partnership Program Standards (Medicaid Managed Care).

The committee was referred the following nine Executive Orders, reorganizing various cabinets and programs in the state government:

- 96-862** relating to the reorganization of the Cabinet for Human Resources;
- 96-884** relating to the establishment of the Kentucky Health Purchasing Alliance in the Department of Insurance Public Protection and Regulation Cabinet;

- 96-924** relating to the reorganization of the Department for Medicaid Services;
- 96-939** relating to the reorganization of the Kentucky Developmental Disabilities Planning Council;
- 96-954** relating to the establishment of the Kentucky Commission on Human Services Collaboration;
- 96-1494** relating to the reorganization of the Cabinet for Health Services;
- 96-1499** relating to the reorganization of the Cabinet for Families and Children;
- 96-1576** relating to reorganization and the Disposition of Juveniles in State Custody;
- 97-96** relating to the reorganization of the Kentucky Commission on Human Services Collaboration; and
- 97-1348** relating to the reorganization of the Department of Public Health within the Cabinet for Health Services.

The committee held legislative public hearings on the following federal Block Grant applications administered by state agencies:

Community Services

Grant Period: October 1, 1996 to September 30, 1997
 Total federal funds expected: \$6,567,924

Community Services

Grant Period: October 1, 1997 - September 30, 1998
 Total federal funds expected: \$8,243,850

Community Mental Health Services

Grant Period: October 1, 1996 to September 30, 1997
 for SFY July 1, 1997 to June 30, 1998
 Total federal funds expected: \$3,773,054

Preventive Health and Health Services

Grant Period: October 1, 1996 to September 30, 1997
 Total federal funds expected: \$2,402,823

Preventive Health and Health Services

Grant Period: October 1, 1997 - September, 1998

Child Care and Development Funds

Grant Period: October 1, 1997 - September 30, 1999
Total federal funds expected: \$44,663,720

Social Services Preliminary

Grant Period: July 1, 1997 - June 30, 1998
Total federal funds expected: \$35,212,092

Maternal and Child Health

Grant period: October 1, 1997 - September 30, 1998

Total federal funds expected: \$11,973,723

Community Mental Health Services

Grant Period: October 1, 1997 - September 30, 1998

Total federal funds expected: \$3,808,501

Substance Abuse Prevention and Treatment

Grant Period: October 1, 1997 - September 30, 1999

Each month the committee received a briefing from the Secretary of the Cabinet for Families and Children on the Fiscal and Programmatic Impacts on Kentucky of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

Each month the committee received a briefing from the Secretary of the Cabinet for Health Services on the Implementation of the Kentucky Health Care Partnership, a federally approved Section 1115 Waiver to establish capitated managed care for Kentucky's Medicaid recipients through regional groupings of health care providers known as "Health Care Partnerships".

The committee accepted the Kentucky Council on Higher Education's selection of the University of Louisville as the site for the establishment and operation of the State Autism Training Center (96 HB 159).

The committee received briefings on the following subjects:

- Kentucky Cancer Control Program Annual Report;
- Department for Public Health Services Breast Cancer Screening Program Annual Report;
- Measuring Quality in Managed-care Systems using tools developed by the National Committee for Quality Assurance;
- Health Data Collection under KRS 216.2920 through 216.2929 for the purpose of Health Care Cost and Quality Comparison;
- Concerns about inclusion of Hospice services in Certificate of Need Nonsubstantive Review Status;
- A welfare recipient's views on how the Kentucky welfare system can help recipients enter or re-enter the job market;

- Cabinet for Families and Children cuts in Social Services Block Grant contracts;
- Kentucky State Data Center statistics on shifts in characteristics of populations in Kentucky;
- Kentucky Association of Gerontology's statement on gerontology issues of interest to that organization;
- Manpower Demonstration Research Corporation presentation on lessons learned from welfare reform initiatives in other states;
- Private sector activities directed toward employment of current and potential welfare recipients;
- Kentucky Nurses' Association concerns about hospital-based patient safety;
- Update on the Supported Living Program, as mandated by KRS 210.770 to 210.795;
- Briefing on the effect on state Medicaid programs from the purchase of long-term care insurance by LTC, Inc.;
- Testimony from the public about reduction in state funds for elder care programs;
- Cabinet for Health Services update on Estate Recovery under the Kentucky Medical Assistance Program;
- Council for Affordable Health Insurance's Overview of Federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and Recommendations for Kentucky Compliance with the Act;
- Discussion of proposed reduction in Medicaid reimbursement of nursing facilities;
- Cabinet for Health Services discussion of the Kentucky State Health Plan Update and Certificate of Need Policy;
- Report from Attorney General's Task Force on Prescription Drug Abuse and related legislation;
- Discussion of proposed cuts in the private child care facilities levels of care reimbursement system; and
- Cabinet for Families and Children's Status Report on the activities of the Division of Child Support Enforcement.

Subcommittee on Families and Children

The Subcommittee on Families and Children held eleven meetings through October, 1997. Subjects considered by the subcommittee included:

1. Factors related to the lagging development of psychiatric residential treatment facilities within the state and the lack of availability of community based services for children with severe emotional disabilities and their families;
2. Concerns about rapid growth in Medicaid expenditures for children with severe emotional disabilities in out-of-state residential treatment facilities;
3. The availability of medical information after adoptions are finalized, and the development of swift adoption procedures following 1996 legislation addressing adoption issues;
4. Concerns of adoptive families about meeting the medical needs of special needs adopted children past the age of majority; and
5. Implementation of domestic violence issues following 1996 legislation, including expansion of the duration of protective orders and the recognition of out-of-state protective orders; establishment of a statewide victims notification system; increase in the training and certification for service providers; strengthening of arrest procedures, penalties, and court procedures; and enhancement of the roles of victim advocate;.
6. Consideration of the governor's proposed legislation for child protective services, including expanding the definition for abuse and neglect, reducing the time for dispositional hearings, and expanding the criteria for termination of parental rights, and expediting the process for termination. Profile of abused and neglected children in Kentucky;
7. Financing services through Medicaid to emotionally disabled children with complex treatment needs by an expansion of the Mental Health Department's Impact program;
8. The needs of children with severe emotional disabilities being served in out-of-state facilities, including the cost of care, the availability of in-state facilities, monitoring of children out of state, and the appropriateness of care;
9. Oversight and monitoring of treatment centers for delinquent youth, including contracting with private providers, and the decision-making process for closing facilities;
10. Family service worker caseloads for child protective service workers; and

11. Exploring repercussion from recurring budget shortfalls within the Department for Social Services and the consistent use of one-time funding sources to resolve the crisis.

Subcommittee on Health Care Access and Cost Oversight

The Subcommittee on Health Care Access and Cost Oversight held six meetings through October, 1997. Subjects considered by the subcommittee included:

1. *Certificate of Need (CON) programs across the country.* An overview of the CON program in Kentucky and efforts in other states to streamline or eliminate the CON was presented. Industry representatives testified as to their views on CON. Representatives from the Kentucky Medical Association, Kentucky Hospital Association, Kentucky Association of Health Care Facilities, and Ephraim McDowell Regional Medical Center recommended that the CON program remain in place with no changes. Columbia/HCA and Jewish Hospital recommended that the CON program be retained with changes for certain services and facilities, and that the process be streamlined. The phase-out of the Ohio CON program was discussed.
2. *The CON program in Kentucky.* The Cabinet for Health Services' Certificate of Need Office and the Health Policy and Analysis Branch testified regarding the effectiveness of Kentucky's CON program, and stated that the program has not been effective in meeting its stated goals, such as controlling the costs of health care, while creating barriers to competition.
3. *Individual Health Insurance.* The Council for Affordable Health Insurance testified regarding the individual health insurance market in Kentucky and presented an overview of responses to the federal Health Insurance Portability and Accountability Act. The Council recommended that Kentucky adopt a high risk pool, streamline the rate review process, provide some rating restrictions, limit mandated benefits, and bring competition into the market.
4. *The CON process and health care costs.* A professor from Georgia State University testified regarding CON regulation and the health care delivery system. He testified that CON laws have not been effective in controlling health care costs. The Kentucky Home Health Association and the Kentucky Association of Hospice testified that CON laws in Kentucky should be retained to control costs.
5. *Pharmacy reimbursement for Medicaid.* Pharmacy reimbursement for providers in the Region 3 Medicaid Managed Care Partnership was discussed. Pharmacy providers, as well as representatives from the Partnership, testified as to the proposed rates for reimbursement. The pharmacy representatives objected to lowering reimbursement rates and stated that they could bring the overall costs of care down for their patients with proper oversight of the use of medications and patient consultation.

6. *Physician assistants.* A legislative proposal, related to physician assistants, for the 1998 Regular Session was discussed by the subcommittee. The proposal would authorize physician assistants to prescribe and administer non-scheduled legend drugs and medical devices, under the supervision of a physician, and within the control of a Physician Assistant Advisory Committee established by the Kentucky Board of Medical Licensure. Several physician assistants testified that this bill would increase access to medical care in rural areas and allow physicians to concentrate on more complex cases.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON JUDICIARY**

**Senator Ernesto Scorsone, Co-Chair
Representative Mike Bowling, Co-Chair**

Sen. Gary Johnson
Sen. David Karem
Sen. Tim Philpot
Sen. Larry Saunders
Sen. Jack Westwood
Rep. Kevin Bratcher
Rep. Perry Clark
Rep. Herbie Deskins
Rep. Bob Heleringer
Rep. Jeffrey Hoover
Rep. Tom Kerr
Rep. James Lovell
Rep. Arnold Simpson
Rep. Katie Stine
Rep. Rob Wilkey

Sen. Nick Kafoglis
Sen. Gerald Neal
Sen. Julie Rose
Sen. Elizabeth Tori
Sen. David Williams
Rep. Stan Cave
Rep. Jesse Crenshaw
Rep. Charles Geveden
Rep. Kathy Hogancamp
Rep. Susan Johns
Rep. Gross Lindsay
Rep. Frank Rasche
Rep. Kathy Stein
Rep. John Vincent

LRC STAFF Norman Lawson, Scott Varland, Mac Lewis, Lou Pierce, Lorena Watson,
and Dawn Groves

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON CORRECTIONS AND SENTENCING

Representative Gross Lindsay, Co-Chair

Senator Elizabeth Tori, Co-Chair

Rep. Susan Johns
Rep. Kevin Bratcher
Rep. Jesse Crenshaw
Rep. Tom Kerr
Rep. Frank Rasche
Rep. Katie Stine

Sen. Julie Rose
Rep. Perry Clark
Rep. Jeffrey Hoover
Rep. James Lovell
Rep. Arnold Simpson
Rep. Rob Wilkey

SUBCOMMITTEE ON JUVENILE JUSTICE

Representative James Lovell, Co-Chair

Senator Gary Johnson, Co-Chair

Sen. Jack Westwood
Sen. Gerald Neal
Rep. Stan Cave
Rep. Charles Geveden
Rep. Kathy Hogancamp

Rep. Kathy Stein
Rep. Kevin Bratcher
Rep. Herbie Deskins
Rep. Bob Heleringer
Rep. John Vincent

INTERIM JOINT COMMITTEE ON JUDICIARY

JURISDICTION: matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedent's estates; domestic relations (including domestic violence); adoption; abortion; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; witnesses evidence; legal notices; construction of statutes; civil procedure; the Kentucky Supreme Court, the Supreme Court, the Court of Appeals, Circuit Courts and District Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks of court; juries, attorneys; commissioners and receivers; court reporters; 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 committee was held in August, 1996 and was a joint meeting with the Budget Review Subcommittee on Justice, Corrections, and Judiciary, of the Interim Joint Committee on Appropriations and Revenue. The Secretary of Justice briefed the committee on the inter-cabinet teams formed with the Justice Cabinet and the Cabinet for Families and Children for the purpose of implementing the transfer of functions for juvenile justice matters from the former Cabinet for Human Resources and the Cabinet for Families and Children to the newly formed Department of Juvenile Justice in the Justice Cabinet. At the meeting the Secretary informed the committee that a former official of the New Jersey Department of Juvenile Services had been appointed to head the Department of Juvenile Justice. The Secretary of the Cabinet for Families and Children then explained to the committee the steps being taken by that cabinet to implement the provisions of the juvenile code and discussed the progress in implementing the federal consent decree involving juvenile facilities and services. A Deputy Secretary of Justice then informed the committee on the progress of construction of the juvenile facility in Breathitt County.

The second meeting of the committee was held in September, 1996. At this meeting the Justice Secretary introduced the new Commissioner of Juvenile Justice, to the committee and the new Commissioner discussed some of his philosophy regarding juvenile treatment and juvenile facilities. The next speakers were from the Department of Criminal Justice training with a report on the implementation of the training required for 1996 HB 40 relating to permits for carrying concealed deadly weapons. They indicated that the course of instruction had been finalized, that the initial group of instructor trainers had been trained, and the course was now being taught to applicants. The Justice Secretary and the Secretary of the Cabinet for Families and Children then discussed the

implementation table for transfer of facilities and personnel to the Department of Juvenile Justice; this was followed by an update by a representative of the Justice Cabinet on the juvenile consent decree negotiations with the federal government.

The third meeting of the committee was held in October, 1996. At this meeting the Justice Secretary described changes in the asset transfer schedule for funds relating to implementation of juvenile code changes and progress on implementation of getting the Department of Juvenile Justice operational. This was followed by a report on progress in choosing architectural firms for the construction of juvenile facilities in Northern Kentucky and Western Kentucky. The Commissioner of the Department of Juvenile Justice spoke of new budget needs, including \$7 million for implementation of the Juvenile Consent Decree. He also reported on the success of a Kentucky Bar Association program in which attorneys volunteer to provide services pro bono (without charge) to low-income persons.

The fourth meeting of the committee was held in November, 1996. At this meeting the committee heard from several persons representing organizations interested in grandparents rights, who wanted to make it easier for grandparents to adopt children left in their care and who wanted funding and insurance programs to supplement taking care of these children. The Justice Secretary updated the committee on the progress of facility construction in Breathitt county and in Newport and Paducah. The Commissioner of Juvenile Justice reported on changes the department was seeking with regard to the juvenile consent decree and other juvenile justice matters. The Department of Criminal Justice presented a report on the progress of training persons to meet the requirements of 1996 HB 40, relating to concealed weapon permits.

The fifth meeting of the Committee was held in December, 1996, for the purpose of approving the committee report on the implementation plans of the Department of Juvenile Justice for juvenile facilities, programs, funding, personnel, and other issues. The report was approved.

The sixth meeting of the Committee was held in February, 1997. The Chairman introduced the new Senate Judiciary Committee Chairman, who gave a short explanation of his views regarding the committee. This was followed by a report from the Department of Corrections relating to prison population, probation, parole, and other programs operated by the Department. The Justice Secretary described preparations for the upcoming execution followed by reports on sex offender treatment programs, the housing of Class D felons in county jails, intensive probation supervision and other Corrections programs.

The seventh meeting of the Committee was held in March, 1997. The committee discussed at length 98 RS BR 245, relating to changing the method of execution from electrocution to lethal injection. The Justice Secretary and the Commissioner of Corrections discussed details of the upcoming execution. The committee also heard a proposal for public notification that a sexual predator has moved into the neighborhood. A representative of the Department of Corrections presented a report on her recent

research into the effectiveness of the sexual offender treatment program. This was followed by a description of the VINE victim notification program being operated by the Department of Corrections and local jails, which informs the public when persons are released from jail or prison.

The eighth meeting of the Committee was held in April, 1997. At this meeting the Attorney General introduced Mr. Fred Goldman, whose son was murdered in California; he spoke of the need for the protection of crime victims and the need for victim's rights legislation and for lengthy sentences, with 85% service of sentence for persons convicted of violent offenses. This was followed by a discussion by the Attorney General's Office of problems with Kentucky statutes relating to violent criminals. The committee approved administrative regulations relating to Cadet Troopers for the State Police. The chair appointed chairs and vice chairs for the subcommittees on Juvenile Justice and Sentencing and Corrections.

The ninth meeting was held in June, 1997. After extensive discussion, the committee approved an amended version of 98 RS BR 245, relating to changing the method of execution from electrocution to lethal injection, for prefilings. The amendments provided that lethal injection would be the only method of execution for persons convicted after the effective date of the legislation, and that persons convicted before that date would have the option of electrocution or lethal injection. The amendments also provided for crime victim witnesses to the execution. Following the approval of the prefilings, an extensive discussion was held, with witnesses both approving of and opposing execution as a criminal penalty.

The tenth meeting was a two-day meeting in July, 1997. The first part of the meeting featured a tour of the Kentucky State Police Post at La Grange, the State Reformatory at La Grange, the Luther Luckett Complex, the Kentucky Criminal Psychiatric Center and the Roederer Correctional Complex and its boot camp, the Adjustment and Classification center, and the Kentucky Correctional Institution of Women. At each facility the warden and staff described the facility, its programs, inmate population, and needs. The prison facility tour was followed by a tour of the probation and parole facilities in Louisville, where the staff explained their programs, population served, and needs. The first evening, an informal dinner meeting was held with representatives of the Justice Fellowship, Departments of State Police, Corrections, and Juvenile Justice, and legislators. The second day of the meeting featured a tour of Department of Juvenile Justice facilities in the Louisville Area, including Cardinal Treatment Center, Central Kentucky Youth Development Center, Johnson-Breckinridge Treatment Center, and Rice-Audubon Treatment Center, where the staff informed the committee members of programs, population served, facility needs, and legislators had an opportunity to speak with some of the youth in treatment.

The eleventh meeting of the Committee was held in August, 1997. At this meeting numerous speakers presented information on fathers' rights in child custody cases, the lack of custodial equality, and legislative changes needed to support more equal arrangements

in custody cases. This was followed by a discussion of the length of time which it took foster parents to adopt children in the special needs adoption program. The next speakers talked of grandparents needs with regard to child custody and visitation, and visitation and custodial equality. Its sponsor presented 1998 RS BR 143, which would prevent same sex marriages in Kentucky. This was followed by discussions by parties representing both sides of the issue of permitting same sex marriages. Another sponsor presented 1998 RS BR 305, which would prohibit issuance of domestic violence orders and emergency protective orders to same sex couples. This was followed by discussions by parties representing both sides of the issue.

The twelfth meeting of the Committee was held in September, 1997. The first speakers, representing the American Association of Retired Persons spoke in favor of legislation which would change various probate laws. 98 RS BR 249 makes an inventory of assets in an estate optional rather than mandatory. 98 RS BR 251 deletes the current Kentucky law which specifies that a marriage revokes a prior will. Other speakers took up other probate matters, including 98 RS BR 250, which would change the Uniform Transfers on Death Act, and 98 RS BR 248, which would increase the amount of money a surviving spouse would receive if the spouse died intestate. The next speaker spoke about 98 RS BR 806, relating to generation skipping taxes, and 98 RS BR 807, which would define and provide for durable powers of attorney, 98 RS BR 808, relating to time credits have to come in to court to receive payment, 98 RS BR 810, relating to qualified disclaimers for joint property, and 98 RS BR 809, which would make changes to the Uniform Simultaneous Death Act. No action was taken on the bills.

The thirteenth meeting of the committee was held in October, 1997. The purpose of the meeting was to discuss legislation relating to abortion. The proposals discussed included 98 RS BR 224 and 98 RS BR 905, relating to waiting periods and informed consent prior to the performance of an abortion, 98 RS BR 928, which expands the number of persons who may consent to an abortion for a minor in lieu of the courts or the minor's parents, 98 RS BR 868, relating to questions which must be asked of the minor seeking an abortion by the judge, 98 RS BR 243 and 98 RS BR 241, which would prohibit partial birth abortion, 98 RS BR 961 and 98 RS BR 962, which prohibit fetal homicide and 98 RS BR 462, which would place abortion clinics under the same regulation as outpatient surgical facilities. Numerous persons appeared and spoke for and against each piece of legislation, describing legal, ethical, religious, moral, and other matters relating to each piece of legislation and relating to abortion in general.

The fourteenth meeting of the committee was held in November, 1997. The first speaker spoke of the conclusion of the problems which he and his wife had in adopting two children whom they previously had in foster care under the special needs adoption program. The next speakers were from the Cabinet for Families and Children, who spoke of the special needs adoption program, the foster care program, how the adoption programs worked, and changes needed to shorten the time from application to completion of an adoption. The next speaker was the Secretary of Public Protection and Regulation, who spoke of the study undertaken by a task force on mentally ill persons who had

committed crimes and discussed some of the recommendations of the task force relating to public notification following the release of persons who are mentally ill but who have committed crimes, and the possible abolition of the guilty-but-mentally-ill defense, and the use of psychiatric review boards to assess the dangerousness of mentally ill persons who have completed prison terms. The next speaker was the Attorney General accompanied by a representative of Mothers Against Drunk Driving, who spoke on the recommendations of the Attorney General's Task Force on Drunk Driving, which included reducing the blood alcohol content to .08 from .10 for adults, a child endangerment statute increasing penalties when a drunk driver has a child in the vehicle, and the adoption of administrative license revocation in DUI cases. Speakers presented details of the need for adopting these proposals.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE
ON LABOR AND INDUSTRY**

**Senator Glenn Freeman, Co-Chair
Representative J.R. Gray, Co-Chair**

Sen. Walter Blevins
Sen. David Boswell
Sen. Bob Leeper
Sen. Virgil Moore
Sen. Richie Sanders
Sen. Tim Shaughnessy
Sen. Robert Stivers
Sen. David Williams
Sen. Gex Williams
Rep. Rocky Adkins
Rep. Hoby Anderson
Rep. John Arnold
Rep. Mark Brown
Rep. Denver Butler

Rep. Hubert Collins
Rep. Ricky Lee Cox
Rep. Walter Gee
Rep. Charlie Hoffman
Rep. Dennis Horlander
Rep. Joni Jenkins
Rep. Eleanor Jordan
Rep. Stephen Nunn
Rep. Charles Siler
Rep. Tommy Turner
Rep. Brent Yonts

LRC STAFF: Linda Bussell, Adanna Hydes, Melvin LeCompte, Betty Davis, and
Sandra Morris

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

**SUBCOMMITTEE ORGANIZATION
AND MEMBERSHIP**

Subcommittee on Workforce Development

Rep. Joni Jenkins, Chair
Sen. David Boswell
Sen. Virgil Moore
Sen. Richie Sanders
Rep. Mark Brown
Rep. Ricky Lee Cox
Rep. Dennis Horlander
Rep. Charles Siler

**Subcommittee on Employment Standards
And Labor Relations**

Rep. Eleanor Jordan, Chair
Sen. Robert Stivers
Sen. Gex Williams
Rep. Hubert Collins
Rep. Walter Gee
Rep. Hoby Anderson
Rep. Charlie Hoffman

**Subcommittee on Implementation of HB 1
And Other Workers' Compensation Issues**

Rep. Rocky Adkins, Co-Chair
Sen. Walter Blevins, Co-Chair
Sen. David Williams
Rep. John Arnold
Rep. Denver Butler
Rep. Stephen Nunn
Rep. Tommy Turner
Rep. Brent Yonts

Sen. Glenn Freeman, Ex-Officio
Rep. J.R. Gray, Ex-Officio

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

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

COMMITTEE ACTIVITY

During the 1996-97 Interim, the Interim Joint Committee on Labor and Industry held 16 meetings prior to November 1, 1997. The full committee and its subcommittees also met in November.

The Committee was organized into three subcommittees, Workforce Development, Employment Standards and Labor Relations, and Implementation of House Bill 1 and Other Workers' Compensation Issues. The following is a summary of the activity for the full committee and the subcommittees.

The major issues considered by the Interim Joint Committee on Labor and Industry were workers' compensation and prevailing wage. Following the end of the 1996 Regular Session of the General Assembly, the Governor announced that he would call an Extraordinary Session of the General Assembly later in the year to reform Kentucky's workers' compensation law. Consequently, from May through November 1996, the committee held monthly meetings to study the workers' compensation issue in anticipation of an Extraordinary Session.

The workers' compensation issues studied and considered by the committee included revisions in the definitions of injury and disability, and the manner in which compensability was determined; restructuring of the black lung benefit provisions; closure of the special fund for accrual of future liability; limitations on reopening of benefit awards; creation of guaranty funds for self-insurance; and reduction of litigation and attorney fees. An Extraordinary Session of the General Assembly was held December 2 through December 12, 1996, and House Bill 1 was enacted. House Bill 1 made major revisions in the workers' compensation law in Kentucky, contained in Chapter 342 of the Kentucky Revised Statutes. Since enactment of House Bill 1, quarterly reports on implementation have been presented at meetings of the committee.

Following the Extraordinary Session on workers' compensation, the quarterly reports on implementation and status of House Bill 1 were presented to the committee.

Kentucky's prevailing wage law, contained in Chapter 337 of the Kentucky Revised Statutes, was significantly revised in the 1996 Regular Session of the General Assembly. In response to news media accounts that the new prevailing wage law was having an adverse impact on several school construction projects, the committee obtained approval for a limited study of the impact of the new prevailing wage law on selected school construction projects by the Auditor of Public Accounts. The report of the study, including recommendations, was presented to the committee in August, 1997. The report found that the new prevailing wage law was not applicable to four of the five projects studied by the State Auditor, and projected that the new prevailing wage law might have increased the cost of one of the projects by approximately 8%. The report recommended that the Labor Cabinet review other states' approaches to calculating and determining prevailing wages in an attempt to make improvements in the methods used for determining and calculating prevailing wages in Kentucky. A response from the Labor Cabinet and members of organized labor in Kentucky were presented to the committee at the November meeting.

In addition to workers' compensation and prevailing wage, the committee also conducted routine review of several administrative regulations relating to workers' compensation, occupational safety and health, and unemployment insurance.

Subcommittee on Workforce Development

The Subcommittee on Workforce Development held four meetings during the 1996-97 interim, prior to November 1, 1997. The Subcommittee met with the purpose of providing educational information to subcommittee members regarding the agencies and programs addressing the training and skill development needs of Kentucky workers and employers.

Discussions throughout the interim focused on providing the best delivery of training services to workers and future workers. Vocational and technical education training programs were reviewed at the secondary and post-secondary levels, as well as those offered as continuing education. At the October subcommittee meeting held at the Barren River Area Technology Center, members gathered viewpoints on the placement of the secondary technology centers within the Workforce Development Cabinet or the newly created Kentucky Community and Technical College system (KCTC).

In November, the subcommittee heard a presentation on career and vocational rehabilitation services provided by Career Resources, Inc.

Subcommittee on Employment Standards and Labor Relations

The Subcommittee on Employment Standards and Labor Relations held two meetings during the 1996-97 interim, prior to November 1, 1997. The Subcommittee

focused primarily on the status of Kentucky's unemployment insurance program, and received reports on the increase of the federal minimum wage law, and labor relation activities conducted by the Labor Cabinet.

The director of the Unemployment Insurance Division in the Cabinet for Workforce Development made presentations at both meetings of the subcommittee. The presentations were on the status of the unemployment trust fund, from which benefits are paid to unemployed workers in the Commonwealth. The director reported that the trust fund had a balance of approximately \$600 million as of August, 1997, and that employers have been paying the lowest unemployment insurance taxes available under the current tax schedule for eight years. He said the extremely healthy status of the fund was due to legislative changes made to the unemployment insurance law in the early eighties. The director said that the healthy status of the trust fund has resulted in discussions about the possibility of reducing employers' unemployment insurance taxes and increasing benefits paid to unemployed workers. Features of Kentucky's unemployment insurance program, including tax rates, benefit levels, and eligibility requirements for benefits, especially to employees engaged in a labor dispute, were also compared to those of other states for the purpose of evaluating Kentucky's program.

In August, the subcommittee heard a report from the Director of Employment Standards and Labor Relations in the Labor Cabinet on the increase in the federal minimum wage law. The director reported that the federal minimum wage would increase from \$4.25 per hour to \$5.15 per hour on September 1. He said the impact on Kentucky's minimum wage law would be minimal, since the two laws are compatible to a large degree, except that they apply to different employees.

The Director of the Mediation Branch in the Labor Cabinet reported that the function of the mediation branch was to facilitate good relations between labor and management in the Commonwealth, and summarized successful activities of labor-management committees. The director informed the members that the successful labor-management program of the Labor Cabinet has been used as a model throughout the country and in other countries as well. The office also offers training services to labor and management and oversees the labor management grant program.

In November, the subcommittee reviewed proposed unemployment insurance legislation from the Division of Unemployment Insurance.

Subcommittee on Implementation of House Bill 1 And Other Workers' Compensation Issues

During the 1996-97 Interim, the Subcommittee on Implementation of House Bill 1 and Other Workers' Compensation Issues, met twice prior to November 1, 1997. A third meeting was held in November.

At the first meeting, held in August, 1997, Subcommittee members heard presentations on the Department of Workers' Claims' (DOWC) Carrier Benchmarking Program and other agency performance measures, development of new funding formulas for both the Special and Coal Worker's Pneumoconiosis (CWP) Funds, and the recent NCCI (National Council of Compensation Insurance) advisory loss cost rate filing for non-coal employers. The Commissioner of the DOWC and his staff discussed methods used by the DOWC to receive feedback on the impact of House Bill 1; purpose, procedures and concerns surrounding the implementation of the carrier benchmarking program; methods used to evaluate the performance of administrative law judges (ALJs), arbitrators, and workers' compensation specialists; and the Commissioner's need to make recommendations on the number of arbitrators and ALJs to be retained by the agency.

The Chairman of the Workers' Compensation Funding Commission and Commission staff described the procedures used to determine the premium assessment rates to fund both the Special and Coal Worker's Pneumoconiosis Funds, and presented a time table for making recommendations on assessment levels for calendar year 1998 to the General Assembly. In addition, the Subcommittee was told that collections, in FY 1997, for the Special Fund were approximately \$112 million, administrative expenses and claims payouts were \$138 million, leaving a balance of \$341 million in the benefit reserve fund. Assessments collected and interest earned were higher than projected during the 1996 Extraordinary Session of the General Assembly on Workers' Compensation, and administrative expenses and claims payments were lower than projected, providing a higher benefit reserve balance on which to earn interest. The balance of the CWP Fund was slightly over \$3.6 million in August, 1997.

Subcommittee members also were told that the NCCI rate filing for non-coal employers, effective September 1, 1997, recommended an average reduction in rates of 14.3%, in addition to the previous rate reductions. The NCCI is expected to make an advisory rate filing for coal employers in February, 1998.

During its second meeting, held September 18, 1997, Subcommittee members heard presentations on the Independent Medical Evaluation (IME) program, self-insurance oversight activities, and the impact of House Bill 1 on self-insured employers. A staff attorney for the DOWC reported that in addition to the examinations for CWP (black lung disease) and hearing loss that began in February 1997, examinations for occupational injuries started in August, 1997. IME program administrators from the University of Kentucky and the University of Louisville discussed operations of the program, and informed the members that: the universities are cooperating to implement the IME program, and view it as one program; quality assurance procedures, particularly for black lung evaluations, have been established; training is on-going; and, claimants appear to be satisfied with the services provided.

A Principal Assistant to the Commissioner of the Department of Public Health presented a status report on plans to assess the IME program. The draft of an assessment tool was developed, distributed for review, and scheduled for testing in October 1997.

The assessment tool will only evaluate the administrative process of the program; evaluation of clinical competency will be left to the medical schools.

The Director of the Security and Compliance Division, DOWC, gave a brief update on the examinations of self-insured groups. Three groups, KACO, Kentucky League of Cities, and Associated Industries of Kentucky (AIK), were being evaluated. The evaluation for AIK was completed, and while the findings and recommendations of the examination are confidential, the Director said the DOWC is satisfied with the adequacy of the reserve fund, as far as the ability of the group to continue making payments is concerned, that the funds are sufficient for the benefits to the employees of the members of the fund, and that there were concerns regarding management policies, which will be addressed with the fund management and the sponsoring organization. The major change in oversight activities for individual self-insured employers is the DOWC's use of an on-line service with Dunn & Bradstreet to monitor the financial strength and other business activities of self-insured employers. Also, the DOWC has established a "watch list" for employers that appear to be at risk for insolvency.

The Vice-President of the Kentucky Association of Self-Insurance, Inc., said his members felt it was too early to assess the impact of House Bill 1, but felt the requirement for a minimum simulated premium (\$.30 per \$100 annualized payroll) did not adversely affect them, as most members' premiums were above the minimum requirement. The adjustment of the administrative cost factor from 1.12 to 1.25 resulted in an increased simulated premium, which most members considered minor. He reported that the overall adjustment averaged around 11%, but other variables affect the calculation of the simulated premium. Reserves included in the calculation of the simulated premium for public sector self-insurers have resulted in an increase in their simulated premiums and corresponding increases in assessments paid to the Workers' Compensation Funding Commission.

At the third meeting in November, presentations were made on the status of the workers' compensation marketplace and fraud investigation activities by staff of the Department of Insurance. Also, the assessment rates for calendar year 1998, established by the Workers' Compensation Funding Commission for the Special and Coal Workers' Pneumoconiosis Funds, were presented, and recommendations for retention of workers' compensation arbitrators and ALJs made by the Workers' Compensation Nominating Commission were reported.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
LICENSING AND OCCUPATIONS**

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

Sen. Fred Bradley
Sen. Tom Buford
Rep. Larry Clark
Rep. Ron Crimm
Rep. Porter Hatcher, Jr.
Rep. Joni Jenkins
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Rep. Jim Lovell
Rep. Allen Maricle
Senator Kim Nelson
Rep. Ruth Ann Palumbo
Rep. Jon David Reinhardt
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Sen. Dan Seum

Rep. Kevin Bratcher
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Rep. Jack Coleman, Jr.
Rep. Robert Damron
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Sen. Dan Kelly
Rep. Paul Marcotte
Sen. Barry Metcalf
Sen. Denny Nunnelley
Sen. Tim Philpot
Sen. Richard "Dick"

LRC Staff: Michael Greer, Vida Murray, Yair Riback, Allison Weber, and Sue Hensley

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

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

COMMITTEE ACTIVITY

The Interim Joint Committee on Licensing and Occupations held twelve meetings during the course of the 1996-97 interim, including one two-day meeting. All meetings were held in Frankfort. No subcommittees were created and all matters were discussed and considered by the full committee.

The first meeting of the interim, September 13, 1996, was primarily for organizational purposes. A list of potential issues was presented and members were asked to review the list, rank issues in order of importance, and add any issues not included. The following is a summary of issues pursued during the interim.

Administrative Regulation Review

Twenty-six administrative regulations promulgated by eight agencies were referred to and considered by the committee. Twenty-five regulations were adopted and one, 500 KAR 11:090, was found deficient.

Alcoholic Beverage Control

A major effort this interim involved a comprehensive review by the Committee of the administration of the Department of Alcoholic Beverage Control, prompted, in part, by adverse press reports. At the February committee meeting, the newly appointed Commissioner briefed members on organizational changes he had already initiated in the Department of Alcoholic Beverage Control.

The Committee then confirmed Executive Order 97-26, relating to reorganization of the Department of Alcoholic Beverage Control, as discussed by the Commissioner. The Commissioner noted that other changes needed to be made and he would welcome input from the committee as part of the process. An agenda was

then developed for a three-part review, beginning in April, with a discussion of the history and organizational structure of the alcoholic beverage industry in Kentucky. The following month was devoted to licensing and regulation policies and procedures, and the review was completed when the committee focused in June on enforcement problems and programs. After the June meeting adjourned, some Committee members and staff took a tour of the Labrot and Graham Distillery, the oldest standing distillery in Kentucky, which recently underwent a multi-million dollar restoration by Brown-Foreman to make it a tourist attraction, as well as a working facility to produce a super-premium bourbon.

At the conclusion of the alcoholic beverage control review, the Commissioner told the committee that information developed, and comments made, during the review would be taken into consideration in drafting necessary legislation for the 1998 session.

Racing and Gaming in Kentucky

For the last ten years, the racing industry in Kentucky has faced growing competition from increased gambling across the country, particularly from riverboat casinos on the Ohio River. Anticipating possible legislation during the 1998 session, the chairs scheduled a two-day meeting in November, 1996, to give committee members a comprehensive overview of racing and gaming issues. The agenda for the meeting was developed in conjunction with the Department of Equine Administration at the University of Louisville. The agenda included several nationally recognized experts on gaming issues.

The following is a list of some of the issues that were addressed during the meeting:

- National trends in racing and gaming.
- How other jurisdictions have responded to increased competition.
- Video lottery terminals as a competitive response.
- Gambling as an economic development tool.
- Social problems associated with increased gambling: Compulsive and problem gambling.
- The potential threat of internet gambling.
- Trends in Kentucky racing.
- Relationship of racing and breeding in Kentucky.
- Industry perspectives on current trends.

Continuing Education for Cosmetologists

Senate Bill 199, enacted by the 1996 General Assembly, contained a provision requiring annual continuing education for cosmetologists. Administrative regulations to implement this requirement were referred to the Committee and scheduled for

review at the February, 1997, meeting. A large contingent of licensed cosmetologists appeared to testify in opposition.

Those present objected to the fact that the Board of Hairdressers and Cosmetologists had allegedly proposed the continuing education legislation with no notification of or input from licensees. Beyond this point, opponents differed with regard to the basis of their opposition. One group supported continuing education generally, but objected to the absence of flexibility in the implementing regulations. In particular, they complained of the failure of the Board to allow product-specific trade show activities to qualify as continuing education.

The other group opposed the concept of continuing education, on the grounds it was not needed. They contended that licensees know what their markets require and those that need continuing education obtain it on a voluntary basis. Requiring all licensees to obtain annual continuing education places a financial burden on licensees, particularly part-time practitioners and those in rural areas, and the result will not insure better practice. It will, in their opinion, force some to quit practicing altogether.

The Board agreed to hold hearings on the matter and report back to the Committee. A report was made by the Board at the August meeting and, while the Board made some recommendations to moderate the regulations, the recommendations did not seem to satisfy many of those in opposition.

Regulation of Charitable Gaming

As has been customary since initial passage of charitable gaming legislation in 1994, the Committee received periodic briefings by the Division of Charitable Gaming concerning the regulation of charitable gaming in Kentucky. As a result of these briefings and testimony from interests involved in charitable gaming, a number of issues emerged:

- Application of the 40% rule.
- Abuse of "casino night" provisions.
- Facility rental fees.
- Use of "management consultants".
- Status of "cake wheels".
- Enforcement problems.
- Reduction of charitable gaming fees.

Based on input received, a member of the committee, in consultation with other members and the Division of Charitable Gaming, drafted legislation to address these issues. 98 RS BR 827 was previewed at the November, 1997, committee meeting and copies distributed to interested parties. Testimony on the bill draft was heard at the December, 1997, meeting.

Regulation of Health Spas

At the August, 1997, meeting, the Committee also heard testimony from the Director of the Consumer Protection Division, Attorney General's office, concerning the need for amending the health spa law. The law currently provides that all health spas post a bond to be used for refunds to members when a health spa closes. In the past year several health spas had closed, but the bonds in effect were not sufficient to fully cover monetary losses. Several approaches were under consideration by the Division but a preference had not yet been determined. The Director explained that the purpose in appearing was to familiarize committee members with the issue, in anticipation of legislation during the 1998 session.

Prefiled Bills

At its November, 1997, meeting, the Committee heard testimony on prefiled 98 RS BR 175, which would require a sewage disposal permit be issued for new construction before final electric service can be approved. The sponsor explained that the purpose of the legislation is to prevent new construction without adequate sewage disposal. Representatives of the Departments for Public Health and Housing, Buildings, and Construction, as well as local health officials and public utility representatives, testified in favor of the bill. After discussion, the bill was approved.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
LOCAL GOVERNMENT**

**Senator Paul Herron, Co-Chair
Representative Steve Riggs, Co-Chair**

Rep. Adrian Arnold	Rep. Thomas McKee
Sen. Benny Ray Bailey	Rep. Vernon Miniard
Rep. Sheldon Baugh	Rep. Steve Nunn
Rep. Lawrence Brandstetter	Rep. Billy Polston
Rep. Tom Burch	Rep. Marie Rader
Rep. Jim Callahan	Rep. Jon David Reinhardt
Rep. Larry Clark	Rep. Tom Riner
Rep. Ricky Cox	Sen. Albert Robinson
Rep. Ron Crimm	Sen. Julie Rose
Rep. Bob DeWeese	Rep. William Scott
Sen. Glenn Freeman	Rep. Arnold Simpson
Rep. Walter Gee	Rep. Dottie Sims
Rep. Drew Graham	Sen. Robert Stivers
Rep. J. R. Gray	Rep. Roger Thomas
Sen. Ernie Harris	Sen. Elizabeth Tori
Rep. Jeffrey Hoover	Rep. Jim Wayne
Sen. David Karem	Rep. Mike Weaver
Sen. Vernie McGaha	Rep. Brent Yonts

LRC STAFF: Jamie Jo Franklin, Donna G. Weaver, Mark Mitchell, Joe Pinczewski-
Lee

and Cheryl J. Walters

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON BUILDING INSPECTION

Representative Jim Wayne, Chair

Senator Nick Kafoglis, Vice Chair

Rep. Adrian Arnold

Rep. Lawrence Brandstetter

Rep. Bob DeWeese

Rep. Walter Gee

Rep. Drew Graham

Rep. J. R. Gray

Rep. Joni Jenkins

Rep. Albert Robinson

Rep. Roger Thomas

Senator Gary Johnson, Ex-Officio

Representative Steve Riggs, Ex-Officio

TASK FORCE ON CITIES

Representative Arnold Simpson, Chair

Rep. Lawrence Brandstetter

Rep. Tom Burch

Rep. Jim Callahan

Rep. Larry Clark

Rep. Ron Crimm

Rep. Bob DeWeese

Rep. Vernon Miniard

Rep. Jon David Reinhardt

Rep. Tom Riner

Rep. Jim Wayne

Senator Gary Johnson, Ex-Officio

Representative Steve Riggs, Ex-Officio

SUBCOMMITTEE ON COMMUNITY DEVELOPMENT BLOCK GRANTS

Representative Arnold Simpson, Chair

Rep. Adrian Arnold

Rep. Sheldon Baugh

Rep. Lawrence Brandstetter

Rep. Dwight Butler

Rep. Jim Callahan

Rep. Bob DeWeese

Rep. Drew Graham

Rep. J. R. Gray

Rep. Joni Jenkins

Sen. Nick Kafoglis

Sen. Joe Meyer

Rep. Tom Riner

Sen. Albert Robinson

Rep. William Scott

Rep. Jim Wayne

SUBCOMMITTEE ON PLANNING AND ZONING
Representative Jim Wayne, Chair
Representative Lawrence Brandstetter, Vice-Chair

Senator Glenn Freeman
Representative J. R. Gray
Senator Ernest Harris
Representative Jon David Reinhardt
Representative Tom Riner

Senator Gary Johnson, 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

The Interim Joint Committee on Local Government has met six times during the 1996-97 interim period. The chairmen began the interim by appointing members to various subcommittees and choose to let these subcommittees complete their work before bringing the full committee together. This decision was also prompted by the creation of a task force on local government taxing structure, which was established by the 1996 General Assembly. The chairmen felt that it would be prudent to give the task force time to begin their work because they felt that the topic of local government taxation is of such importance and the task force's findings would likely compose a major portion of the committee's interim recommendations.

In addition to the work of the various subcommittees, the full committee held a public hearing at its first meeting, in March of 1997, regarding the 1997 Kentucky Small Cities Community Development Block Grant Program. At this hearing the Committee reviewed the status and use of funds of previous block grant program awards and was presented with proposed changes in the program for the upcoming year.

At their second meeting, the Committee was presented with the findings of their Subcommittee on Building Inspection. They also heard testimony from the Kentucky County Judge/Executive Association and the U.S. Corrections Corporation

regarding the current status of county jails in the Commonwealth and efforts which have been undertaken to privatize jails within the state.

In June, the Committee heard testimony from the County Clerks Association regarding legislative proposals which the clerks would like to see enacted during the 1998 General Assembly. They reviewed administrative regulations dealing with the Kentucky plumbing code and took testimony from citizens and the Kentucky Home Builders regarding the status of home inspections across the state. They also heard testimony from the mayor of Prospect regarding the needs of some of our smaller cities.

When the Committee met in August they heard testimony from representatives of the Kentucky Sheriffs Association regarding a recent Court of Appeals judgment which declared the deputy sheriff merit boards in the state unconstitutional. The Sheriffs' Association voiced their concerns over the findings but also reiterated their concerns that sheriffs should still retain the ability to be able to control their employees so that they can effectively operate their offices. The Committee decided to take no action on this issue until contacting other parties which may have been affected by the judgment. Also, at this meeting, the Committee reviewed a proposed administrative regulation which dealt with the rules of procedure for the construction of cellular telephone towers. The regulation, which was being proposed by the Public Service Commission, was amended at the meeting to include language which would require cellular companies to show that they had considered co-location on existing towers prior to applying for the construction of a new tower. Testimony on this issue was given by the Public Service Commission, representatives of various cellular telecommunications companies, cellular tower construction companies, and the Kentucky League of Cities. Finally, at this meeting, the Committee also reviewed a legislative proposal which dealt with building inspections.

When the Committee met in September, they held their meeting in Lexington in conjunction with the annual meeting of the Kentucky League of Cities. At this meeting, they gave approval to a pre-filed bill relating to incentive pay and benefits which are available to police, firefighters, volunteer fire departments and sheriffs. They also heard testimony from the Kentucky League of Cities and the Kentucky Department of Local Government relating to their 1998 legislative packages. And lastly, they heard testimony from representatives of Jefferson County and the City of Louisville regarding the current status of plans to renew the Louisville/Jefferson County Compact during the upcoming legislative session.

At their final meeting in November, the Committee once again reviewed administrative regulations from the Department of Housing, Buildings and Construction. They gave approval to a pre-filed bill which would put a neighborhood representative on local air boards. They received the final reports of the Task Force on Local Government Taxing Structures and the Subcommittee on Planning and Zoning. They also reviewed a number of legislative proposals from the Subcommittee

on Building Inspection. The Committee voted to pre-file 98 RS BR 444, which would apply the Kentucky Building Code to single family dwellings. But the Committee rejected a proposal which would have created a statewide building inspection program. They then reviewed Executive Order 97-1391, which reorganized the Department for Local Government. They gave approval to the reorganization but made the finding in their report to the LRC that they would prefer that such a plan would be on a revenue neutral basis. The last action of the Committee for the interim was to hear testimony from some of the smaller cities in Jefferson County regarding their concerns about the proposals which may be made during efforts to renegotiate the Louisville/Jefferson County Compact in 1998.

In addition to the activities of the full Committee, the following subcommittees and task forces were formed for the 1996-97 interim:

1. Subcommittee on Building Inspection (96 HCR 84)
2. Subcommittee on Community Development Block Grants
3. Task Force on Cities.
4. Subcommittee on Planning and Zoning

Subcommittee on Building Inspection

96 HCR 84 mandated a subcommittee be formed to study various aspects revolving around building inspectors, including: the certification process for building inspectors, an incentive plan, and an evaluation of the testing procedures involved in the certification process.

In September of 1996, the Subcommittee on Building Inspections was formed and met on the regular meeting day of the Interim Joint Committee on Local Government. It met a total of five times.

The Subcommittee heard testimony from the Commissioner of the Department of Housing, Buildings and Construction, on the nature of building inspections and the Department's role in administering and certifying the building inspections. It also heard testimony from the Code Administrators Association of Kentucky regarding general information relative to building inspectors and the processes they must go through in fulfilling their statutory and regulatory duties.

Several homeowners testified to suffering from substandard construction (standard being the minimum acceptable construction guidelines provided for in the Kentucky Building Code), which they felt could have been avoided if one and two family dwellings were mandatorily enforced throughout the Commonwealth, instead of being optionally enforced by the individual local governments. The Subcommittee also heard testimony from the Homebuilders Association in regard to the mandatory inclusion of one- and two-family residences in the building code, as well as from individual inspectors. All supported this inclusion.

The Subcommittee heard testimony from an official from Virginia's Department of Housing regarding the treatment of their building officials, including information on payment of dues for membership of local inspectors to B.O.C.A. to allow for additional support services for them. The idea of an official training academy was also discussed briefly.

The subcommittee also heard testimony from the Kentucky League of Cities regarding the mandatory inclusion of one- and two-family dwellings in the Kentucky Building Code, which the League supported.

The Subcommittee, on a two-day meeting on December 11 and 12, 1996, met and received testimony from the Code Administrators' Association of Kentucky regarding their position on a draft of the recommendations of the Subcommittee and heard position testimony from the Kentucky County Judges Executive Association and the Kentucky Association of Counties regarding the issue of including one- and two-family residences within the purview of the Kentucky Building Code. Also, representatives from the Insurance Services Office (ISO), an independent risk-assessment agency representing many insurers, discussed their role in evaluating the status of Kentucky's building inspection process. A numerical rating is given to localities and insurers often giving discounts to insureds in a location with favorable ratings.

The final meeting was devoted to finalizing the recommendations of the Subcommittee and was held the second week in January, 1997. The recommendations as passed, and as presented to the Interim Joint Committee on Local Government on April 23rd, are as follows:

1. In order to assure safe, quality housing in Kentucky, that the Kentucky Building Code be changed to include the mandatory inspection of newly constructed one- and two-family dwellings, or an incentive program for local governments to establish a building inspection program;
2. In order to provide flexibility to local governments and flexibility for building inspectors to carry out inspections, that inspectors be allowed to hold multiple inspection certificates;
3. In order to provide efficient and economic service, and to allow flexibility for the local governments and building inspectors, that provisions be made to facilitate the sharing of inspectors by multiple local governments;
4. In order to provide adequate and uniform training for building inspectors, that the Department of Housing, Buildings and Construction establish a more extensive training program for building inspectors from revenue derived from the inspection fees;

5. In order to facilitate the dissemination of current knowledge and to provide support to building inspectors, that the Department of Housing, Buildings and Construction provide funds for selected inspectors from throughout the Commonwealth to attend the annual meetings of the Building Officials and Code Administrators International Association;
6. In order to encourage building inspectors to advance in their certification levels, that the Department of Housing, Buildings and Construction establish an incentive program with revenue derived from plan review fees;
7. In order to provide uniformity among Kentucky building inspectors and to provide support services for building inspectors, that the Department of Housing, Buildings and Construction develop a division to provide support services for building inspectors of newly constructed one- and two-family residences;
8. In order to maintain clear channels of responsibility, that local building inspectors shall inspect and approve construction in place per the plans and specifications as approved by the plan reviewers of the Department of Housing, Buildings, and Construction or other local jurisdictions; and
9. In order to assure quality construction, that contractors of single family dwellings, multifamily dwellings, and commercial buildings be bonded and licensed.

Subcommittee on Community Development Block Grants

Due to the late submission by the involved state agencies of the federal application for the Kentucky Small Cities Program of the Community Development Block Grant (CDBG), the Subcommittee on Community Development Block Grants was formed. This subcommittee was formed as a special subcommittee which would meet one time, for the specific purpose of undertaking the annual review of the Kentucky CDBG application, which is a jurisdictional responsibility of the interim committee.

The subcommittee did meet the one time and at this meeting, they met with state, local, federal and regional officials, as well as representatives of special interest groups which participate in the CDBG process. Specifically, the members of the subcommittee heard a presentation by the Department of Local Government and the Kentucky Housing Corporation which discussed the 1996 federal application, the changes in the program from the previous year and the previous use of CDBG funds.

It was pointed out to the subcommittee that the major changes for this year's program were the inclusion of two new project areas: non-traditional economic

development and microenterprise development. The subcommittee was told that both of these areas were being undertaken as 1-year demonstration projects, with their future depending on the interest of applicants in these types of project areas. The funding for these two new project areas came from a reduction in the percentage of the total CDBG funding which had been previously allocated for housing.

While several subcommittee members and various guests expressed their concerns regarding the reduction of funding for housing applications, the subcommittee did recommend the 1996 CDBG application as submitted to the Legislative Research Commission for their approval. The subcommittee found that the application met the standards and criteria set forth in the statutes for such block grant applications.

Task Force on Cities

The Task Force on Cities did not meet during the interim.

Subcommittee on Planning and Zoning

The Subcommittee on Planning and Zoning of the Interim Joint Committee on Local Government was formed in June 1997 at the request of several committee members, to determine the current status of planning and zoning issues in Kentucky.

The Subcommittee held three meetings during which it heard from planning professionals, local government officials and the home builders association as to current planning and zoning issues and their effect on the citizens of the Commonwealth. In response to the testimony heard at these meetings, the Subcommittee made the following recommendations to the full Committee at its November 5, 1997 meeting, for their response and further action.

1. The 1998 General Assembly should create a task force to study the issues of orderly and sensible urban growth, and other issues relating to the planning and zoning process, as determined by the task force.
2. There should be a review of the various development fee and transfer development rights programs in existence, and respective tax and land use policies.
3. There should be a review of land development regulations and policies in flood plain areas.
4. Consideration should be given to the training needs of local planning officials.
5. Consideration should be given to the use of hearing officers for non-controversial cases in the planning and zoning process.

6. Methods to reduce the backlog of local planning and zoning cases in the court system should be reviewed.
7. Current state and local laws and procedures which strengthen the planning and zoning process should be reviewed.
8. New and amended statutory language which would increase the authority of local governments to enforce local planning and zoning ordinances and the binding elements of local development plans should be considered.
9. Consideration should be given to the protection of the sovereignty of the Commonwealth to regulate land use within its borders. This action should carry out the intent of 97 SS SR 35, adopted May 29, 1997, and review the problems created by the intervention of federal or international agencies in land use regulation.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
STATE GOVERNMENT**

**Senator Paul Herron, Jr., Co-Chair
Representative Charles Geveden, Co-Chair**

Rep. John Adams	Rep. Jimmie Lee
Rep. Woody Allen	Rep. Gross Lindsay
Rep. Adrian Arnold	Rep. Paul Marcotte
Sen. Benny Ray Bailey	Rep. Allen Maricle
Rep. Eddie Ballard	Rep. Mary Lou Marzian
Rep. Joe Barrows	Sen. Vernie McGaha
Rep. Jim Bruce	Rep. Lonnie Napier
Rep. Dwight Butler	Rep. Jon David Reinhardt
Rep. Jim Callahan	Sen. Albert Robinson
Rep. Larry Clark	Sen. Julie Rose
Rep. Perry Clark	Rep. John Will Stacy
Rep. Joe Clarke	Rep. Jim Stewart
Rep. Brian Crall	Sen. Robert Stivers
Rep. Freed Curd	Sen. Elizabeth Tori
Rep. Danny Ford	Rep. Jim Wayne
Sen. Glenn Freeman	Rep. Mike Weaver
Sen. Ernie Harris	Rep. Rob Wilkey
Sen. Gary Johnson	Rep. Pete Worthington
Sen. David Karem	Rep. James Zimmerman

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

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

TASK FORCE ON ELECTIONS & CONSTITUTIONAL AMENDMENTS

Rep. Adrian Arnold, Chair

Rep. Woody Allen

Rep. Perry Clark

Rep. Joe Clarke

Rep. Freed Curd

Rep. Danny Ford

Rep. Gross Lindsay

Rep. Allen Maricle

Rep. Mary Lou Marzian

Rep. Jim Stewart

Senator Paul Herron, Jr., Ex-Officio

Representative Charles Geveden, Ex-Officio

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

JURISDICTION: Matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the General Assembly, its committees, officers and service agencies; redistricting; the Governor; the Lieutenant Governor; intergovernmental cooperation; 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 1996-97 Interim, the Interim Joint Committee on State Government held nine meetings prior to November 1, 1997.

The Committee was organized into one subcommittee, the Task Force on Elections and Constitutional Amendments. Following is a summary of activity of the full Committee and the Task Force.

Major topics before the Interim Joint Committee on State Government included Kentucky State Government's Pilot Personnel Program, EMPOWER Kentucky, the spring 1997 flood and tornado disaster recovery effort, electronic/digital signatures, methods of selecting appellate justices and judges, and retirement service credit for noncertified school board employees.

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

Pursuant to KRS 12.028, the Committee held hearings on four executive reorganization orders: 97-146, establishing the Kentucky Kare Health Insurance Authority and reorganizing the State Employee Benefit Fund; 97-1091, reorganizing the Public Protection and Regulation Cabinet, Office of the Secretary; 97-1117, reorganizing the Workforce Development Cabinet; and 97-1327, abolishing and

replacing the Capital Plaza Authority and a joint planning committee. The Committee forwarded two executive order referrals to the special Subcommittee on Veterans' Affairs for review: EO 97-733, relating to the Department of Veterans' Affairs, and EO 97-1161, expanding the membership of the Advisory Board for Veterans' Affairs. The special Subcommittee reviewed the orders and subsequently reported back to the State Government Committee.

In March, 1997, the Committee conducted pre-confirmation hearings on appointments to the Board of Directors of the Kentucky Lottery Corporation, and an appointment to the Personnel Board.

At the March, April, and May meetings the Committee reviewed the operations and activities of several agencies within its jurisdiction: State Personnel Board; Personnel Cabinet; Kentucky Lottery Corporation; Kentucky Retirement Systems; and the Kentucky Judicial Form Retirement System, which administers the Legislative and Judicial Retirement Plans.

In April, the Division of Disaster and Emergency Services reported in depth on flood response operations and mitigation efforts subsequent to the spring 1997 flood and tornado disasters in Kentucky. A later meeting included a follow-up report from DES regarding disaster assistance payments.

One meeting was devoted to a briefing on Kentucky State Government's Pilot Personnel Program. Two meetings included status reports and testimony on EMPOWER Kentucky initiatives. At its June meeting, the Committee received testimony on two prefiled bills implementing EMPOWER Kentucky proposals relating to the state personnel system. BR 378 would authorize a voluntary severance program for permanent full-time and part-time employees. BR 379 would provide alternative methods of examining candidates for state employment.

The September 1997 agenda included a videotaped presentation of a teleconference with a member of the Utah legislature regarding that state's Digital Signatures Act. The Committee also was briefed by the LRC Network Administrator on the topic of "secure digital correspondence" and received a report from the Commissioner of the Department of Information Systems on the activities of the Electronic Signatures Subcommittee of the Kentucky Information Resources Commission.

At its October meeting, the Committee heard testimony from five judges of the Court of Appeals regarding 98 RS BR 122, which proposes to amend the Constitution of Kentucky relating to selection of appellate justices and judges of the Court of Justice. The meeting also included a hearing on 98 RS BR 380, relating to retirement service credit of noncertified school board employees, and a discussion with staff of the Executive Branch Ethics Commission regarding the Commission's proposed changes to the Executive Branch Code of Ethics.

Task Force on Elections & Constitutional Amendments

During the 1996-97 interim, the Task Force on Elections and Constitutional Amendments held six meetings prior to November 1, 1997.

At its first meeting, in February 1997, the Task Force discussed potential issues for consideration during the interim: whether voting machines in each county would accommodate the large numbers of offices on the ballot in 1998; whether the statutes regarding a voter's eligibility to vote in a primary need revision; whether the Americans with Disabilities Act (ADA) required each polling place to have at least one voting machine that would permit a person with a visual disability to vote in privacy without assistance; and whether the polling place hours on election day should be extended to allow all voters in line at 6:00 p.m. to vote past 7:00 p.m.

At its second meeting, in March 1997, the Task Force learned that 31 counties have voting machines that might not accommodate the large ballot expected in 1998 and that some of those counties will therefore purchase new voting machines. The Task Force discussed reports relating to voter registration increases through "Motor-Voter" agencies, voter turnout, and updating voter registration data by use of a computerized data base of 911 emergency response addresses. The Task Force also examined a staff report recommending revisions to the election recount and contest laws and concluded that the issue should be addressed pursuant to the report in the 1998 Regular Session.

At its third meeting, in June 1997, the Task Force conducted a public hearing in Bowling Green to receive comments regarding the conduct of elections, campaign finance, and proposals for amendments to the Kentucky Constitution. Comments received by the Task Force related to: measures to reduce the impact of potential overcrowding at the polls in 1998; the ambiguity of the statute prohibiting electioneering at the polls on election day; campaign finance disclosure requirements; early voting, voting by mail, and absentee ballot voting; and the desirability of having the maximum of four constitutional amendments proposed at each even-year election.

At its fourth meeting, in July 1997, the Task Force received legislative recommendations for the 1998 Regular Session from the Registry of Election Finance, the State Board of Elections, the Secretary of State's office, and the Kentucky County Clerks' Association. After considerable discussion of each recommendation, the Task Force directed staff to prepare bill drafts addressing the recommendations. The Task Force also directed staff to prepare a bill draft which could be addressed at a special session, if included in the call, to present a constitutional standard for determining a voter's eligibility to vote in a political party's primary. The Task Force also sent a letter to the Governor urging that this issue be included in the call for any special session prior to the 1998 Regular Session.

At its fifth and sixth meetings, in August and September 1997, the Task Force reviewed and approved, with minor modifications, the bill drafts prepared to address legislative recommendations received at the prior month's meeting. At the September meeting, the Registry of Election Finance and the Kentucky County Clerks' Association presented additional recommendations concerning campaign finance issues and absentee voting, respectively, for the Task Force's consideration. The Task Force directed staff to prepare bill drafts for the 1998 Regular Session to address the Registry's recommendations and to amend the bill draft prepared to address the Clerks' Association's prior recommendations. The Task Force members were informed that they could individually prefile the bill drafts, once complete. The prepared bill drafts are:

- 98 RS BR 815, which makes omnibus changes to the laws regarding the conduct of elections;
- 98 RS BR 816, which permits the solicitation and acceptance of post-election contributions to defray legal expenses arising after the election and allows candidates up to 60 days after an election to reconcile any overage of receipt of PAC contributions to their campaigns;
- 98 RS BR 817, which links procedures for filling a vacancy in candidacy to the ballot certification date, rather than to whether or not the ballots are printed, restricts the time period during which candidates may file for office and during which petition signatures may be solicited, conforms the ballot certification date for all election years, and refines the definition of "political party";
- 98 RS BR 949, which creates an independent expenditures committee and requires disclosure of its receipts and expenditures, deletes the limit on contributions to political issues committees, limits the application of restrictions on the use of campaign funds to candidates and campaign committees, and requires a slate of candidates for Governor and Lieutenant Governor to require its vendors or campaign media services and material to comply with Kentucky campaign finance laws, whether the vendor is based in Kentucky or elsewhere; and
- 98 RS BR 959, which revises procedures for conducting a hearing regarding an alleged campaign finance violation against a person with whom no conciliation agreement has been reached regarding the alleged violation.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
TRANSPORTATION**

Sen. Kim L. Nelson, Co-Chair

Rep. Hubert Collins, Co-Chair

Sen. Walter Blevins	Sen. David Boswell
Sen. Nick Kafoglis	Sen. David Karem
Sen. Dan Kelly	Sen. Barry Metcalf
Sen. Virgil Moore	Sen. Albert Robinson
Sen. John "Eck" Rose	Sen. Richard Sanders
Rep. Hobert "Hoby" Anderson	Rep. Eddie Ballard
Rep. Denver Butler	Rep. Barbara Colter
Rep. Freed Curd	Rep. Jodie Haydon
Rep. Kathy Hogancamp	Rep. Joni Jenkins
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Rep. Paul Mason	Rep. Fred Nesler
Rep. Donnie Newsome	Rep. Thomas Pope
Rep. Marie Rader	Rep. Chris Ratliff
Rep. John Will Stacy	Rep. Tommy Turner
Rep. John Vincent	Rep. John Michael "Mike" Weaver
Rep. Rob Wilkey	Rep. Pete Worthington

LRC STAFF: Kathy A. Campbell, Jeff Kell, John Snyder, and Linda Hughes

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE 1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON COMMERCIAL VEHICLE REGULATION

Rep. Jimmie Lee, Chair

Sen. Barry Metcalf
Rep. Jodie Haydon
Rep. Joni Jenkins
Rep. Marie Rader

Rep. Eddie Ballard
Rep. Kathy Hogancamp
Rep. Paul Mason

Rep. Hubert Collins, Ex-Officio Member
Sen. Virgil Moore, Ex-Officio Member

SUBCOMMITTEE ON HIGHWAYS AND TRAFFIC SAFETY

Sen. Albert Robinson, Chair

Sen. Kim L. Nelson
Rep. Freed Curd
Rep. Thomas Pope
Rep. Mike Weaver

Rep. Barbara Colter
Rep. Paul Marcotte
Rep. Tommy Turner
Rep. Rob Wilkey

Rep. Hubert Collins, Ex-Officio Member
Sen. Virgil Moore, Ex-Officio Member

**SUBCOMMITTEE ON OVERSIGHT
OF HIGHWAY CONSTRUCTION**

Rep. Fred Nesler, Chair

Sen. Nick Kafoglis
Rep. Hoby Anderson
Rep. Donnie Newsome
Rep. John Will Stacy

Sen. Richard Sanders
Rep. Denver Butler
Rep. Chris Ratliff
Rep. John Vincent

Rep. Hubert Collins, Ex-Officio Member
Sen. Virgil Moore, Ex-Officio Member

INTERIM JOINT COMMITTEE ON TRANSPORTATION

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

COMMITTEE ACTIVITY

During the 1996-97 Interim, the Interim Joint Committee on Transportation held eleven meetings prior to November 1, 1997. The Legislative Research Commission approved a request by the Committee to meet in November and December 1997, to review the proposed Six-Year Road Plan and other legislative issues for the 1998 session.

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

Major topics before the Interim Joint Committee on Transportation were Kentucky's receipt of a federal motor carrier grant to implement CVISN (Commercial Vehicle Intelligent Systems Network); Empower Kentucky recommendations affecting the Transportation Cabinet; a highway project cost estimating study conducted by the University of Kentucky Transportation Center; highway safety and the increased use of double and triple trailers; support of the Kentucky Congressional Delegation's effort to pass Step 21--legislation returning a greater percentage of gas tax revenues to each state; taxation of the motor carrier industry; review of 98 RS BR 265, an act relating to the manner property tax and usage tax is assessed on motor vehicles, implementation of 1996 legislation governing graduated driver's licenses for persons ages 16-21 and legislation streamlining the title process; litigation challenging the graduated driver's license (*Commonwealth of Kentucky v. Myren E. Howard*); general law enforcement authority of motor vehicle enforcement officers; and the Six-Year Highway Construction Plan.

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

Pursuant to KRS 7.330, the Committee held a hearing on Executive Order 96-916 that reorganized the Transportation Cabinet. The committee conducted a two-day trip to Middlesboro in June 1997, to visit the Cumberland Gap Tunnel. Members attended a workshop on financing federal-aid highways conducted by the Federal Highway Administration in Frankfort in March 1997.

Subcommittee on Commercial Vehicle Regulation

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

During the 1996-97 Legislative Interim period, the subcommittee met one time prior to November 1, 1997. The Legislative Research Commission approved a November and December meeting for the Subcommittee to discuss implementation of CVISN.

The Subcommittee discussed state motor pool management during its initial meeting.

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 1996-97 Legislative Interim period, the Subcommittee met one time before November 1, 1997, and reviewed the federal requirements governing the placement of billboards along interstates, federal-aid primary highways, and parkways.

Subcommittee on Oversight of Highway Construction

During the 1996-97 Interim, the Subcommittee on Oversight of Highway Construction held one meeting prior to November 1, 1997.

The Subcommittee reviewed implementation of the 1996 Six-Year Road Plan during the interim.

Between July 2, 1996 and October 7, 1997, one hundred fifty-seven projects, totaling \$76,743,468, were presented to the Subcommittee and the full Committee by the Cabinet. The one hundred fifty-seven projects had thirty-nine design phase

overruns, thirty-one right-of-way phase overruns, eighteen utility phase overruns, and sixty-nine construction phase overruns.

Design phase overruns totaled	\$ 3,835,855
Right of way phase overruns totaled	\$10,835,153
Utility phase overruns totaled	\$ 4,177,600
Construction phase overruns totaled	\$57,894,860

**REPORT OF THE 1996-97
ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

Representative John A. Arnold, Jr., Chair

Sen. Nick Kafoglis
Sen. Joey Pendleton
Sen. Richard L. Roeding
Rep. Woody Allen
Rep. James Bruce
Rep. Jimmie Lee

LRC STAFF: Susan Eastman, Gregory Karambellas, Donna Little, Stephen Lynn,
Angela

Phillips, Donna Valencia, and Susan Wunderlich

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

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

SUBCOMMITTEE ACTIVITY

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

During the period May, 1996 through December, 1997, the Administrative Regulation Review Subcommittee reviewed 1,003 administrative regulations, and determined that 23 did not comply with statutory authority.

In August 1997 the Legislative Research Commission published the 1997 *Administrative Regulations Service of Kentucky*, which contains administrative regulations in effect as of August 1, 1997.

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

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 1996-97
CAPITAL PLANNING ADVISORY BOARD**

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

Rep. Lawrence Brandstetter
Ms. Susan S. Clary
Mr. James C. Codell, III
Mr. Gary S. Cox
Ms. Bonnie Howell
Mr. Paul Isaacs
Mr. Lou Karibo

Sen. Denny Nunnelley
Sen. Albert Robinson
Ms. Diane Thompson
Mr. Laurel True
Judge Edwin White
Judge Anthony M. Wilhoit

LRC STAFF: Pat Ingram, Mary Lynn Collins, Esther Robison, and Jonathan Downey.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 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 1996-97 Interim, the Capital Planning Advisory Board held nine meetings. At its May 1996 meeting, the Board reviewed actions of the 1996 General Assembly relative to recommendations contained in the Board's 1994-2000 statewide capital improvements plan and discussed issues of interest to members for future meetings. At its August 1996 meeting, the Board received a report from officials of the Department for Facilities Management on the implementation of previous CPAB recommendations regarding state government space utilization, management, and acquisition. This presentation included a preliminary report on development of the long-range plan for housing state agencies in the Frankfort area as mandated by KRS 42.027. At this meeting, the Board also began discussing the 1996-2002 planning process.

Guidelines for state agencies and higher education institutions to use in submitting their 1996-2002 capital improvements plans were approved at the November 1996 CPAB meeting. The guidelines stipulated that the agency plans should include a status report of projects with current biennium (1996-98) authorization and planning information on capital construction projects, equipment purchases (including information technology items and systems), and new or expanded leases of real property. Significant changes from the guidelines used for the previous plan included: 1) requiring equipment items and systems to be submitted for only the first biennium of the planning period (1998-2000) and 2) directing that university capital plans be submitted directly to the Capital Planning Advisory Board, with the Council on Higher Education no longer preparing a systemwide higher education plan (composed of all university projects), but making recommendations on specific projects to the Board.

The November meeting also included a presentation on EMPOWER Kentucky (the initiative to use process re-design and technology to improve the delivery of governmental services) by the Secretary of the Governor's Executive Cabinet and the Chief Project Director, and presentations on the maintenance of state facilities by the Executive Director of the Council on Higher Education and the Secretary of the Tourism Development Cabinet.

Guidelines for the 1996-2002 capital plans were distributed to the universities and state agencies in January, 1997. In January and February 1997, CPAB staff, assisted by staff of the Governor's Office for Policy and Management (GOPM) and the Kentucky Information Resources Management (KIRM) Commission, conducted seven one-day training sessions to familiarize agency and university planning personnel with the capital planning forms and instructions and the related computer software.

The March 1997 CPAB meeting included: 1) an update on EMPOWER Kentucky from the Secretary of the Governor's Executive Cabinet and the Chief Project Director; 2) a discussion of the proposed 800 MHz Digital Trunked Radio Statewide System with the Commissioner of the Department of Information Systems, and 3) a presentation on the Biennial Trends Report by the Executive Director of the Kentucky Long-Term Policy Research Center.

Agency and university capital planning submissions were due on April 15, 1997. Board staff reviewed the submissions for compliance with the guidelines, then analyzed the planned projects and developed summaries highlighting each agency's priorities and major categories of projects. Proposed capital construction, equipment, and information technology projects for the 1998-2002 planning period totaled approximately \$5.0 billion.

Presentations at the June 1997 CPAB meeting provided an overview of the capital planning process and overviews of selected capital projects issues and processes, including court projects, grant/loan programs, multiple projects pools, and state debt.

The Board held a two-day meeting in July 1997 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 information technology equipment items and systems, and from the new Council on Postsecondary Education for projects of the institutions of higher education.

Subsequent meetings in August and October 1997 focused on the development of Board recommendations, based on information received at the July meeting.

In October, the Board gave final approval to the *1996-2002 Statewide Capital Improvements Plan* for submission to the heads of the three branches of government.

The Board's recommendations address two categories of capital priorities: those proposed to be financed from state funds (i.e., general fund, bond funds, investment income, and capital construction surplus), and those proposed to be financed from other than state funds. Relative to projects proposed to be financed from state funds in the 1998-2000 capital budget, the Board recommends:

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

Specific projects or programs were identified in each category.

Relative to capital priorities proposed to be financed from other than state funds, the Board recommends that the 1998-2000 budget authorize all projects proposed by state agencies and universities to be financed 100% from Federal Funds, Restricted Funds, Other Funds, or Road Funds, with the following exceptions:

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

In addition to the capital priorities recommendations, a total of eleven other recommendations were adopted by the Board in conjunction with the 1996-2002 capital planning process, as follow:

STATEMENT OF BOARD INTENT FOR PROJECTS TO BE SUBMITTED IN AGENCY CAPITAL PLANS

The Board recommends that future instructions for agency capital plans state that all facilities proposed to address capital needs and priorities are to be submitted regardless of the anticipated means of acquisition.

USE OF KRS 56.774 FOR ENERGY MANAGEMENT AND CHILLER RETROFIT PROJECTS

The Board recommends that state agencies and postsecondary education institutions be encouraged to utilize the provisions of KRS 56.774, which allow for the use of energy performance contracts, in order to implement energy management and chiller retrofit projects.

The Board also recommends that the Governor and General Assembly give serious consideration to addressing needs identified by the Finance and Administration Cabinet in order to effectively implement this statute (e.g., additional staffing, statutory clarification).

LONG-RANGE PLANNING FOR COURT FACILITIES

The Board recommends that the Chief Justice recommend and the General Assembly appropriate amounts in the 1998-2000 Judicial Branch budget to provide for more long-range court facilities planning. Specifically recommended is funding for two additional positions (an architect and a court facility planner) in the facilities section of the Administrative Office of the Courts (AOC) and for specialized consulting services.

The new positions would be responsible for conducting a comprehensive assessment of current court facilities statewide, establishing standards for projecting future growth, and assisting counties with limited resources in performing feasibility studies and in developing preliminary cost estimates. Funding for consulting services would allow AOC to contract for specialized services, such as structural or mechanical engineering evaluations, as needed.

EXPEDITE IMPLEMENTATION OF AUTHORIZED PROJECTS

The Board recommends that the relevant procedures and statutes be reviewed and, where appropriate, modified, to ensure that capital projects may be implemented as expeditiously as possible following their authorization, while still retaining all safeguards necessary to ensure the integrity of the process.

STUDY WAYS TO REDUCE THE PRISON POPULATION, INCLUDING ALTERNATIVES TO INCARCERATION

The Board recommends that the Executive, Legislative, and Judicial Branches undertake a study of ways to reduce the growth in the prison population, to include identifying alternatives to incarceration that are consistent with public safety.

PREVENTIVE MEASURES / ALTERNATIVES TO JUVENILE DETENTION

The Board recommends that the Executive, Legislative, and Judicial Branches make every effort to identify and utilize alternatives to juvenile detention, consistent with public safety, that could reduce the need for the construction of additional facilities.

PLAN FOR SHARED USE OF POSTSECONDARY EDUCATION FACILITIES

The Board recommends that the Council on Postsecondary Education (CPE) plan for shared facilities to be used by the various public postsecondary education institutions.

STATUTORY FUNDING OF BUDGET RESERVE TRUST FUND

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

TECHNOLOGY-BASED SOLUTIONS AND ALTERNATIVES TO CONSTRUCTION

The Board recommends that it work with relevant state agencies to explore, evaluate, and implement technology-based solutions and alternatives to the construction and acquisition of new space.

CAPITAL PLANNING FOR INFORMATION TECHNOLOGY

The Board recommends that it work with the Kentucky Information Resources Management (KIRM) Commission in establishing the 1998-2004 capital planning instructions and process to ensure that needs and concerns of both entities are addressed to the extent possible regarding the submission, review, and reporting on information technology items and systems.

The Board also recommends that KIRM propose, for consideration by the 1998 General Assembly, any necessary changes in the Kentucky Revised Statutes or Kentucky Administrative Regulations to ensure that items and systems are defined in a manner consistent with current information technology.

LONG-RANGE PLANNING FOR STATE OFFICES

The Board recommends that, pursuant to the provisions of KRS 42.027, the Finance and Administration Cabinet proceed as soon as possible to complete development of its long-range plan for housing state agencies in the Frankfort area.

The Board also recommends that, pursuant to KRS 42.027, the Cabinet begin work to develop long-range plans for housing state agencies which are located in the metropolitan areas of Kentucky.

The complete *1996-2002 Statewide Capital Improvements Plan*, as approved by the Board, will be transmitted to the heads of the three branches of government by the statutory due date of November 1.

**REPORT OF THE 1996-97
CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

**Representative Robert R. Damron, Chair
Senator Bob Leeper, Vice-Chair**

Sen. Tom Buford
Sen. Denny Nunnelley

Rep. Paul Marcotte
Rep. Jim Wayne
Rep. Drew Graham

LRC STAFF: Mary Lynn Collins, Pat Ingram, Scott Varland, Esther Robison
and Shawn Bowen.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

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

COMMITTEE ACTIVITY

As a statutory committee, the Capital Projects and Bond Oversight Committee meets monthly, even when the General Assembly is in session. This report covers committee activity since its mid-interim report was filed and covers the time period between November 30, 1996, and October 31, 1997. During this period, the Committee met 12 times.

Review of Budgeted Capital Projects

The Committee reviewed agency requests to increase the scope of 21 capital projects previously authorized by the General Assembly. Requests were primarily to meet low bids on projects. In several cases, requests were made to address unforeseen problems that emerged once construction began. A request for one of the largest scope increases, for example, involved the Murray State University Regional Special Events Center, which ran into problems when an inspector found cracks in two of the building's corner supports and remedial work was required.

For the 21 projects, the Committee approved cost increases totaling approximately \$20 million. Sources to cover these cost overruns included private funds, federal funds, agency funds, as well as \$6 million from the Capital Construction and Equipment Purchase Account and \$2 million from the Emergency Repair, Maintenance, and Replacement Account.

The Committee reviewed implementation of various other budgeted projects. Concerned about progress on the expansion of the Commonwealth Convention Center, the Committee requested a report about that project from the State Fair Board. The Committee learned that excavation for the expansion had been delayed by last-minute negotiations with a private interest to build an underground parking garage which was not part of the authorized project. The

Committee filed an official Open Records Request with the Finance and Administration Cabinet, seeking the identity of the private party involved in the negotiations. When the Cabinet refused to provide the requested information, the Committee filed an appeal with the Attorney General's Office. Before the Attorney General ruled, however, negotiations for a parking garage broke off, the Finance Cabinet identified a company from Maryland as the private entity, and work on the convention center expansion project resumed. The Attorney General later ruled the Finance Cabinet "improperly withheld the names of the private entities with which it was negotiating" and should have given the Committee the information when it was originally requested.

Review of Unbudgeted Capital Projects

The Committee approved 10 unbudgeted capital projects. Approximately \$1.9 million in state funds was used to match \$3.8 million in federal and private funds. (KRS 45.760(14) permits a capital construction project to be authorized even though it is not specifically listed in the appropriations act, if at least 50% of the costs are from private or federal sources and if the project is presented to the Committee for review.)

The Committee spent considerable time reviewing one unbudgeted project proposed by the Department of Agriculture on behalf of the Purchase of Agricultural Conservation Easements (PACE) Corporation. PACE was created by the 1994 General Assembly but had never been funded. The Department of Agriculture requested an allocation from the Capital Construction and Equipment Purchase Contingency Account to use as a partial match for available federal funds to make the program's first easement purchases. The Committee delayed approval of the project until the PACE Board had an opportunity to consider and respond to issues raised by the Committee, particularly regarding participant selection criteria. When the PACE Board reported back to the Committee with more defined selection criteria and other changes in the program, the Committee approved the PACE project at a scope of \$803,500 (\$350,000 Contingency Account, \$25,000 Department of Agriculture agency funds, \$28,500 private funds, and \$400,000 federal funds).

Review of Bond-Funded Loan/Grant Programs

The Committee reviewed and approved three grants, representing \$1.3 million, from the Economic Development Bond (EDB) pool. This bond-funded program makes grants to local governments to leverage against private investment for economic development in the Commonwealth. Selection criteria include job creation and job retention potential, as well as local government involvement.

The Committee reviewed and approved 10 Kentucky Infrastructure Authority (KIA) loans, totaling approximately \$11.5 million, to local government entities for public infrastructure projects, including:

1. **Fund A (Federally Assisted Wastewater Revolving Loan Fund)** - Five loans, including one planning and design loan, totaling \$9,244,000.
2. **Fund B (Infrastructure Revolving Loan Fund, state-funded)** - One loan for \$528,000.
3. **Fund C (Government Agencies Program, user-supported)** - Two loans, totaling \$1,386,530.
4. **Fund E (Solid Waste Revolving Loan and Grant Fund, state-funded)** - Two loans, totaling \$300,000.

The Committee also approved \$2 million in loan increases for nine previously approved loans and received periodic reports on KIA's newest fund, the Federally Assisted Drinking Water State Revolving Loan Fund, which should be activated soon.

Review of Bond Issues and Financing Agreements

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

1. **Kentucky Infrastructure Authority** - Three bond issues, totaling \$16,414,220, to fund approved public infrastructure projects and to refinance existing debt.
2. **Kentucky Economic Development Finance Authority** - Eight bond issues, totaling \$411,710,000. In these particular issues, the state is only a conduit for the sale of the bonds and has no liability for their repayment. Most of the bonds were to provide financing for various hospitals and nursing homes. One issue provided financing for three Goodwill centers.
3. **State Universities** - Five bond issues, totaling \$30,210,000, to fund authorized projects and to refund existing debt.
4. **Kentucky Higher Education Student Loan Corporation** - Two issues, totaling \$139,920,000, to finance existing debt and to provide new money for student loans.

5. **Kentucky Housing Corporation** - Two issues, totaling \$91,000,000, to fund the purchase of low-income housing mortgages and to refund existing financing.
6. **67 local school district bond issues** - Totaling \$221,123,300, with state debt service participation through the School Facilities Construction Commission (SFCC).
7. **57 local school district bond issues** - Totaling \$139,522,580, with 100% locally-funded debt service. Ten of these issues, representing \$40 million, were used to produce a pool of funds for a small loan program administered by the Kentucky Interlocal School Transportation Association.
8. **110 local school districts** - Tax and revenue anticipation notes totaling \$75,000,000.
9. **Kentucky Asset/Liability Commission** - One tax and revenue anticipation note issue for \$250,000,000. The Kentucky Asset/Liability Commission was established in the First Extraordinary Session of 1997 to provide for short-term financing of capital projects and the management of cash borrowings.

(The State Property and Buildings Commission, which provides for bond financing of capital construction projects authorized by the General Assembly, did not present any bond issues for Committee consideration during the reporting period and has not done so since October of 1995.)

Review of State Leases

The Committee reviewed 16 state agency lease modifications: 10 of these lease modifications increased monthly rental payments to cover the cost of state-agency requested improvements, and six increased the amount of space leased. In addition, the Committee reviewed state leasing procedures following an investigative report by the Attorney General concerning a proposed lease to consolidate offices of the Justice Cabinet. Representatives of the Attorney General recommended legislation to strengthen the state's current leasing process and to establish an independent committee to award large leases for state office space.

In response to the Attorney General's report, the Secretary of the Finance and Administration Cabinet expressed concerns about the efficiency of using a selection committee to award state leases, but indicated a willingness to work on meaningful changes that will not encumber the process. The Secretary also discussed a recent study commissioned by the Cabinet which recommended that

the State reduce by 50% the amount of office space it now leases in Franklin County. The Committee continues to work on these leasing issues.

Review of Court Projects

For the first time, the Committee began monitoring construction of court projects. Local governments are required to provide space for district and circuit courts and are reimbursed for the space through facility use allowance payments appropriated to the Administrative Office of the Courts by the General Assembly. The 1994 General Assembly enacted legislation to include in the definition of a capital project annual use allowances exceeding \$200,000, and the 1996 Judicial Branch Budget Bill authorized, for the first time, new court projects as part of the Judicial capital budget. In January of 1997, the Committee received a request from the Administrative Office of the Courts regarding the Richmond/Madison County District Courts Complex. The Committee approved a scope increase for that project, not to exceed 15% of the authorized annual use allowance. In reviewing this increase, the Committee noted that current statutes do not clearly address the handling of cost overruns relating to court projects.

Review of Various Statutory Funds

In December of 1996, the Committee considered and approved the largest transfers from the Capital Construction and Equipment Purchase Account in a single meeting in the history of the Committee. The Contingency transfers were to address cost overruns on two capital projects: the History Center (\$3,375,000 to meet a low bid) and the Murray Regional Special Events Center (\$1,150,000 to add a portable wood gym floor system and other installations). The transfers, \$4,525,000, represented more than half the Contingency's \$8 million appropriation for the current biennium.

Concerned that the funds remaining in the account might not be sufficient to address project needs for the rest of the biennium, the Committee asked the Finance and Administration Cabinet to review the account from a historical perspective, project future demands, and make recommendations to the Committee as to whether additional funding for the accounts should be included in the call of an anticipated special session. The Secretary of the Finance and Administration Cabinet reported to the Committee that the December draw on the account was a one-time event not anticipated to occur again. From a historical perspective, the Committee was told that the account was in a relatively strong position and the heavy demand on the account had been anticipated, which was why the 1996 Executive Budget included the largest biennial appropriation to the account in 10 years. The Secretary told the Committee he would continue to monitor construction activity, bid climate, and actual experience, but that he did not believe the situation warranted supplemental funding at that time. The Secretary also reported on the Emergency Repair, Maintenance and Replacement Account, which did not experience such heavy use during the reporting period.

Late this year, the Committee reviewed the annual status report of the Parks Capital Maintenance and Renovation Fund. This Fund, created by the 1994 General Assembly and codified as KRS 148.800 to 148.810, is a separate trust and agency account, funded through a surcharge on lodge rooms and other park service charges. Funds are to be used for maintenance and renovation of park facilities and may be used for furnishings, as well as equipment. The Department of Parks administers the Fund, with the approval of the Governor's Office for Policy and Management (GOPM). In its review, the Committee identified the need to clarify reporting and certain other requirements when this Fund is used to supplement funding of previously authorized capital projects. The Department of Parks and GOPM agreed to provide monthly reports on allocations made from this Fund and to work with the Committee on legislation to recommend to the 1998 General Assembly to clarify issues raised.

**REPORT OF THE 1996-97
PERSONAL SERVICE CONTRACT REVIEW SUBCOMMITTEE**

Rep. Marshall Long, Chair

Sen. Denny Nunnolley
Sen. Barry Metcalf
Sen. John "Eck" Rose

Rep. Jesse Crenshaw
Rep. Bob Heleringer
Rep. Drew Graham

LRC Staff: Michael L. Meeks, Joe Hood, Kelly Smith, and Nancy Smith

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE 1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

PERSONAL SERVICE CONTRACT REVIEW SUBCOMMITTEE

JURISDICTION: The duties and responsibilities of the Personal Service Contract Review Subcommittee are the review of personal service contracts awarded by state agencies, and off-line agencies that include the Kentucky Lottery Corporation, the Kentucky Housing Corporation, state universities, the Kentucky Employers' Mutual Insurance Corporation, the Kentucky Higher Education Assistance Authority, the Transportation Cabinet, and the Kentucky Retirement Systems, 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 subcommittee has been in existence since July 1978. Under the current statutes (KRS 45A.690 through 45A.725), no one shall begin work on a personal service contract made by any contracting body until it is filed with the subcommittee and no payment may be made on any personal service contract submitted to the subcommittee until it is approved by the subcommittee, unless a governmental emergency exists. 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, or 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 contracted for events promoted by the State Fair Board.

The subcommittee has no authority to terminate a personal service contract, but may disapprove or make objections to the contract. The secretary of the Finance and Administration Cabinet or head of the off-line agency may: 1) revise the contract to comply with the objections of the subcommittee; 2) cancel the contract if disapproved by the subcommittee; or 3) override the subcommittee's disapproval or objection and allow the contract to remain in effect as originally submitted to the subcommittee. The secretary or head of the off-line agency must notify the subcommittee of the action taken within thirty (30) days.

SUBCOMMITTEE ACTIVITY

The Personal Service Contract Review Subcommittee is a statutory subcommittee of the Legislative Research Commission and therefore required to meet monthly. During the 1996-97 Fiscal Year ending June 30, 1997, the subcommittee reviewed 1,614 contracts and 812 amendments. One contract was disapproved by the

subcommittee. The subcommittee also reviewed a total of 148 contracts for amounts under \$1,000, that are submitted to the subcommittee for informational purposes only. During the 1997-98 Fiscal Year, beginning July 1 through October 15, 1997, the subcommittee reviewed 894 personal service contracts and 184 amendments. Four contracts and/or amendments were disapproved. The subcommittee also received a total of 43 personal service contracts for amounts under \$1,000, that are submitted to the subcommittee for informational purposes only.

**REPORT OF THE 1996-1997
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

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

Sen. Charlie Borders
Sen. Paul Herron, Jr.
Sen. Nick Kafoglis
Sen. Vernie McGaha
Sen. Richie Sanders
Sen. Larry Saunders
Sen. Dan Malano Seum

Rep. Adrian Arnold
Rep. Gippy Graham
Rep. Susan Johns
Rep. Jim Lovell
Rep. Ruth Ann Palumbo
Rep. Charles L. Siler
Rep. Tommy Turner

LRC STAFF: Joseph Fiala, Assistant Director, Sheila Mason, Committee Staff Administrator, Lowell Atchley, Ellen Benzing, Michael Greenwell, Alice Hobson, Joseph Hood, Doug Huddleston, Henry Marks, Alisha Miller, Jo Ann Paulin, and Mary Scott Lee.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 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

During the 1996-97 Interim, the Legislative Program Review and Investigations Committee held 12 meetings through December, 1997.

During this period, the Committee undertook program evaluations of: the Cabinet for Human Resources' eligibility determination process for AFDC, food stamps and Medicaid; the Office of Inspector General's Division of Licensing and Regulation; state agency contract management procedures; Department of Medicaid Services' formulary and prior authorization process; state agency performance data; use of memoranda of agreement by state agencies; and the Department for Local Government's housing grant programs. In addition, the Committee undertook several informational reviews: implementation status of the UNISYS contract and the Medicaid Management Information System; Department for Health Services' disability determination process; calculation of non-classified school employee retirement credit; and privatization procedures used in other states. Finally, several follow up reports were given, related to previous studies and studies completed early in the interim, including: the Kentucky Association of Counties loan and insurance programs, the Department of Parks operations and Marina leasing, memoranda of agreements, eligibility determination and the Division of Licensing and Regulation.

A preliminary review of the Department for Local Government's housing grant program was undertaken and revealed a number of problems identified by the Auditor of Public Accounts, program participants and DLG personnel. These included concerns regarding procedures for amending projects and funding allocations, project management responsibility of local governments, DLG project monitoring, contractor

work quality, project completion problems, conflicts of interest, and a limited number of third party administrators for projects. Given that the current administration of the DLG was only a few months old, and had undertaken actions to address these concerns immediately or for the next grant cycle, the Committee chose not to pursue a full study at this time, but to have the DLG report back after its next grant cycle.

An informational status report presented to the Committee regarding the implementation of the Medicaid Management Information System by UNISYS indicated that the contract schedule was not being met and that significant problems existed. While the Cabinet for Health Services was hopeful these problems would be resolved and the contract brought into compliance, the Commissioner did indicate that he was preparing to re-bid the contract and impose significant financial sanctions if problems were not resolved to his satisfaction.

At the request of the Committee, the Department of Insurance undertook an audit of the KACo All Lines Fund, a liability self-insurance fund for the counties. The audit revealed significant shortfalls in contingency funds and reaffirmed the Committee's findings regarding management and organizational problems. As a result, the Commissioner ordered the KALF program to increase premiums and to recover underestimated past premiums, in order to ensure an adequate surplus and future revenues to meet anticipated claims. Furthermore, the Commissioner urged management changes to improve operations. KACo officials appeared before the Committee at a later date and acknowledged the validity of the management and organizational problems identified in the Committee's earlier report and indicated significant changes in management and organization of the programs to improve operations and ensure future financial security.

Weaknesses in the Department of Social Services' welfare eligibility determination process and the investigation and prosecution of fraud and abuse were identified in the program evaluation performed by Program Review staff. Heavy reliance on collateral statements for income verification, limited verification activities, untimely establishment of complaints and a duplicative and ineffective investigation and prosecution process were identified. The Department for Social Services, the Attorney General's Office and the Office of the Inspector General were in agreement with the findings and recommendations of the report. Subsequently, the AG's office spearheaded an effort with DSS and the OIG to completely revamp the investigation and prosecution process. They reported later that despite increasing volumes of complaints being referred, the time to investigate and submit for prosecution had been reduced to 3 months from 18 or more months and dollars owed were almost doubled. DSS has undertaken efforts to strengthen its income verification and collateral statement procedures.

Use of memoranda of agreement by state agencies has increased significantly over the years; however, uniform policies governing such use are not followed and the Finance and Administration Cabinet and the Personnel Cabinet do not track all

contracts or personnel positions filled by such contracts. As a result of this study, the FAC implemented procedures to require the reporting of MOAs to the Cabinet and implemented a tracking system. Despite the request of the Committee, the Personnel Cabinet did not develop a means of monitoring KRS 18A classified and non-classified positions filled by MOA contract, such as those found in the Department of Education. The Cabinet indicated it would not be able to ensure that agencies reported such information.

Administrative and operational problems in the Office of Inspector General's Division of Licensing and Regulation which affected the public protection of elderly nursing home residents were identified . Although initially resistant to the problems identified, the OIG and the Division eventually embraced the Committee's report and later reported significant improvements in the enforcement of its duties. Changes in response to the Committee's recommendations included the imposition of stronger sanctions and violation identification efforts, a reorganization of inspection regions and personnel, to better balance workload, computerization of files and field survey work, changes in inspection procedures and times, to ensure unannounced visits and to expand observation time to evenings and weekends, establishment of a complaints investigation priority system and design of a new nursing home rating system, which will provide better consumer information.

Research on privatization practices in other states found that Kentucky has no procedures except in the area of prison privatization. These procedures, however, are model procedures and could be expanded to include the privatization of other state services. Not all states have privatization procedures, although many do. These procedures, while varying in specifics, generally follow a rational decision making model. They require an analysis of the proposal and options, which includes costs, savings, and service impacts. Most require some plan for dealing with impacted employees and state equipment and other affected resources. A monitoring and evaluation process is recommended to ensure the quality of services received and to determine the fiscal impact. Finally, most require some type of recovery plan in the event that the state must re-assume responsibility for provision of the service. Privatization is recognized as one of many possible efforts to improve the provision of services, along with reengineering, quality management, and managed competition (competition between government units and the private sector related to the provision of a service).

Kentucky Retirement Systems was asked to discuss with the Committee problems with the calculation of retirement credit for non-certified school district employees. Prior to 1996, statutory language was not precise in defining how retirement credit was calculated for part-time employees in the school districts, employees such as bus drivers, cafeteria workers and maintenance staff. Although KRS had identified the method of calculation, many school districts had been using methods which resulted in higher retirement time calculations. This resulted in employees finding their actual retirement credit reduced upon final audit by the KRS

for determination of retirement benefits. At the request of the Committee, the KRS reviewed its records and identified 67 school districts which had been found to be miscalculating benefits. As a result, all school district personnel are being informed of the potential problem on their annual statements and instructed to have their reported credit reviewed by the local school district.

**REPORT OF THE 1996-97
TASK FORCE ON CHILDREN IN PLACEMENT**

Legislative Members:

**Senator Denny Nunnolley, Co-chair
Representative Jimmie Lee, Co-chair**

Senator Tom Buford
Senator Larry Saunders

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Ex-Officio Members:

Cabinet for Families and Children: Dennis Corrigan for Secretary Viola Miller
Cabinet for Health Services: Margaret Pennington and Betty Weaver for Secretary
John Morse

Department of Education: Johnny Grissom

Justice Cabinet: Commissioner Ralph Kelly for Secretary E. Daniel Cherry

Cabinet for Public Protection: Bill Stewart for Ernie Lewis, The Public Advocate

LRC Staff: Susan Warfield, Pam Lester, Vida Murray, Nyra Shields, Alice Carter,
and

Cindy Broaddus

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

TASK FORCE ON CHILDREN IN PLACEMENT

JURISDICTION: Pursuant to Senate Concurrent Resolution 107 enacted by the 1996 Kentucky General Assembly, the Legislative Research Commission created the Task Force on Children in Placement to conduct a comprehensive study to:

1. Develop a complete baseline of information concerning facilities serving children and the treatment services and programs offered in these facilities, including what services are provided by each facility, the means used to verify services are consistently and appropriately rendered, and the criteria used to measure the effectiveness of the services rendered;
2. Develop an in-depth profile of the children served by these programs;
3. Identify the mechanism for decision making regarding placement, including what influences the development of resources and the contracting for services;
4. Explore the inadequacies of the range of options available and identify the gaps in the continuum of care, including the overreliance on and proliferation of high end, most intrusive, and most restrictive levels of care;
5. Review the current licensing or other authorization requirements for residential facilities caring for children and the assessment procedures for determining the level of care needed for a child and the means of assessment of the progress made by the child while in the facility;
6. Examine the current reimbursement rate structures and identify all sources of funding;
7. Identify high priority problems, needs, and areas to be addressed and make recommendations regarding improvement and clarification of statutes, administrative regulations, agency policies and procedures, and methods of assessment of and contracting for services; and
8. Complete other tasks deemed necessary by the Legislative Research Commission.

Membership: The members of the Task Force include three members of the Senate and three members of the House of Representatives. The citizen members appointed represent the parents of children in need of services, the state agencies vested with the responsibility to provide services to children in placement, the administrators of the private and public facilities serving children in placement, agencies contracted to administer educational programs for children in placement, persons who have an expertise in addressing the needs of children in placement, and advocates for children. One Senator and one Representative serve as co-chairs of the Task Force.

TASK FORCE ACTIVITY

With the enactment of Senate Concurrent Resolution 107, the 1996 General Assembly acknowledged that Kentucky's system for serving the residential placement needs of children should be examined. The Task Force was expected to examine and evaluate the current system of care, explore alternatives intended to improve service

delivery, and propose recommendations for consideration by the 1998 General Assembly.

The Task Force has held eighteen meetings since its appointment in June 1996. In recognition of the complexity of the system and the depth of understanding required for effective evaluation, the primary goal for the Task Force meetings was to learn about the current system of services and facilities available to children in need of placement. Recommendations and concerns have developed over the course of this exploration of the current system which have led to the observations included in this report.

The Task Force has produced the following documents:

- **GLOSSARY** - A glossary of terminology and acronyms was developed and provided for members.
- **VISION STATEMENT** - Throughout the course of the Interim, the Task Force members steadily developed an idea of what should be included in a model system serving vulnerable children and their families. In March 1997, the Task Force approved a Vision Statement that declares the members' view of an ideal system.
- **POINT IN TIME SURVEY** - Task Force staff conducted a survey of facilities, using December 15, 1996, as the Point in Time reference to document information about the children residing in the facility on that day. Findings assisted the members in understanding what type of child is placed in what type of facility at what cost.
- **SURVEY OF DSS FOSTER PARENTS** - In response to a Task Force request, DSS staff conducted a survey of all foster care workers, seeking information about each foster home supervised by the department, and each child living in each of those foster homes. Survey findings included a profile of state foster homes and a greater understanding of the needs of children in foster care.
- **PUBLIC HEARING** - In January 1997, the Task Force convened a public hearing seeking comments from a variety of interested persons, including parents and children, foster parents, social workers, private child care facilities administrators and staff, child advocacy organizations, including CASA volunteers (Court Appointed Special Advocates), local and state Foster Care Review Board members, Guardians ad Litem representing children and attorneys representing parents, judges, health care providers, mental health professionals, educators, and others who may wish to offer comments.
- **BUDGET RESOLUTION** - In July 1997, in response to news of a budget shortfall crisis, the Task Force adopted a Resolution urging Governor Patton to direct the Cabinet for Families and Children to determine an accurate level of funding needed by DSS and to use that baseline in determining future budget requests.

The Task Force received briefings and technical assistance from several leading experts, including:

- **Dr. Osa Coffey**, External Evaluator for the Kentucky Educational Collaborative for State Agency Children (KECSAC) presented information derived from surveys which gathered data regarding children in placement, and from local education professionals. Dr. Coffey's publication of the research is entitled "Listen to the Children" and offers a description of children served and their educational needs.
- **Jake Terpstra**, retired Specialist in Residential Care and Licensing for the Children's Bureau, U.S. Department for Health and Human Services, a nationally recognized expert in the field of licensing for children's services, provided technical assistance and consultation. Mr. Terpstra addressed the assessment, and revision if necessary, of the current licensure categories for private child care facilities, the procedure for steering the development of private facilities, and the structure and policies of the licensing authority.
- **Dr. Otto Kaak, M.D.**, University of Kentucky Outpatient Psychiatric Department, Kentucky Clinic, presented an overview of attachment and permanency issues for children in placement and his observations on the repercussions of disruptions in placement.
- **Jennifer Nelson**, Permanency Planning Specialist with the National Resource Center for Permanency Planning, presented an extensive overview of the federal expectations, state compliance requirements, and model initiatives for permanency planning for children removed from the custody of their parents.
- **Janet Hodge**, Virginia foster parent and Chair of the National Foster Parent Association, Inc. AD HOC Committee on Foster Allegation Support Teams (FAST), presented the fundamental purposes of the FAST concept. Rather than serving as advocates or representatives for foster parents, FAST team members provide information and assistance to foster parents accused of abusing or neglecting foster children.

The Task Force received briefings on a variety of topics, including the following:

PROFILE OF CHILDREN:

- Data summarizing the age, race, and gender of children in the legal custody of the state, included in the DSS Commitment Activity Report by District.
- Information summarizing the assessment findings for children in placement. Children for whom placement is being sought in a private child care facility are assigned a "level" after a thorough assessment by a private contracted agency called the Children's Review Program. The levels system is one in which the private agency is contracted to evaluate the level of complexity of a child's needs and determine the level or rate of payment for the child's care. The Task Force

received a briefing on the Program's annual report, and the results of several special data requests from the Task Force.

BUDGET:

- Recommendations for addressing budget shortfall within DSS. The Commissioner appointed a workgroup to develop recommendations for alleviating the fiscal crisis and improving funding alternatives for children in private child care. The proposals from the workgroup and the departmental response to the recommendations were presented to the Task Force.
- Fiscal trend data for the cost of serving children in placement provided by DSS.
- Medicaid reimbursement for children with severe emotional disabilities placed in out-state residential facilities.

LICENSING AND REGULATION OF PRIVATE AGENCIES:

- Overview of the regulatory requirements and process for licensure for private child care facilities, as presented by representatives from the Division of Licensing and Regulation of the Cabinet for Health Services.
- Response and recommendations from private child care providers. The Kentucky Children's Alliance is an organization whose members include over forty of Kentucky's private child care and child placing agencies. The Alliance presented numerous times over the course of the interim, addressing the need to enhance services to children in placement, improve the financing of these services, and revise existing regulations and licensure requirements for private facilities.

EDUCATION ISSUES:

- Financial and programmatic responsibilities relating to educating students living in the district for educational, rehabilitation, or detention purposes, as reported by The Study on Student Residency, pursuant to 1996 Senate Resolution 105.
- Various opinions regarding the educational services provided to children in placement. Representatives of the Kentucky Department of Education, the Kentucky Educational Collaborative for State Agency Children, local school districts, Kentucky Association of School Boards, Kentucky Children's Alliance, and several foster parents, adoptive parents, biological parents, and children testified regarding their role in educating children in placement and identified their concerns. Local school districts represented include Hardin County, Wolfe County, Clay County, Jefferson County, and Owensboro. Members also heard testimony about federal education laws, the funding strategy for payments to local school agencies to educate state agency children, and the process for transfer of educational records.

JUVENILE JUSTICE:

- Transition and reorganization efforts to implement juvenile justice system reforms contained in 1996 House Bill 117, relating to juvenile justice matters.
- Overview of the Federal Consent Decrees affecting children in placement and efforts to fulfill those requirements.

TWIST

- In September 1996, the Task Force observed a demonstration of the new information and data management system for the Department for Social Services (DSS) called TWIST, or The Worker Information SysTem.

COURT DATA:

- Staff compiled information received from the Administrative Office of the Courts concerning the number of dependency, status, and delinquent petitions filed in Kentucky courts in FY 96 and the number of petitions which resulted in commitment of the child to DSS.

PROGRAM DEVELOPMENT

- The Cabinet for Health Services staff presented a summary of the proposed Behavioral Health Managed Care program called Kentucky ACCESS and the potential impact on children in placement.
- Staff from the Department for Mental Health and Mental Retardation Services and the Department for Medicaid Services presented the Cabinet for Health Services' plan for financing services for children with complex treatment needs. The program, called IMPACT Plus, should provide a funding source for community-based mental health services intended to avoid the need for institutionalization.

EXECUTIVE AGENCIES BUDGET AND LEGISLATIVE PROPOSALS:

- Representatives for the Cabinet for Families and Children, Cabinet for Health Services, Department of Education, and Department for Juvenile Justice presented a summary of their respective biennial budget requests submitted to the Governor and their legislative proposals to be presented to the General Assembly for the 1998 Regular Session.

**REPORT OF THE 1996-97
TASK FORCE ON SCR 103
DEVELOPMENTAL STUDIES AT
JEFFERSON COMMUNITY COLLEGE
FOR UNIVERSITY OF LOUISVILLE STUDENTS**

Senator Tim Shaughnessy, Chair

Senator Dan Seum
Representative Mary Lou Marzian
Representative Porter Hatcher
Dr. Deborah Wilson
Dr. Bruce LaVant
Dr. Robert Lawrence
Ms. Katy Varner
Dr. Gary Cox

LRC STAFF: Ethel Alston, Sandra Deaton and Penny Dutton.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

**TASK FORCE ON SCR 103
DEVELOPMENTAL STUDIES AT
JEFFERSON COMMUNITY COLLEGE FOR
UNIVERSITY OF LOUISVILLE STUDENTS**

As directed by 1996 Senate Concurrent Resolution 103, the Task Force organized in August, 1996, and began its study of the feasibility of using Jefferson Community College as the provider of remedial and developmental learning programs for University of Louisville students. The task force was appointed by the Legislative Research Commission and was composed of four members of the General Assembly from Jefferson County; two members representing the University of Louisville; two members representing Jefferson Community College; and one member representing the Council on Postsecondary Education. The presidents of Jefferson Community College and the University of Louisville attended the meetings and participated as members of the task force.

JURISDICTION: The task force was directed to assess the feasibility of using Jefferson Community College as the provider of developmental learning for University of Louisville students in need of those services. Curriculums for developmental and remedial education programs at the institutions and methods of providing remedial education were explored.

TASK FORCE ACTIVITY

The task force held six meetings to review the administration of the developmental learning and remedial education programs at the University of Louisville, Jefferson Community College, and other Kentucky postsecondary institutions. An overview of the national and regional strategies on developmental education was provided.

To gain the statewide perspective of remedial courses, the Council on Postsecondary Education (CPE) reported that each university administers the American College Test (ACT) to place students in remedial courses, with some using additional tests to ensure accurate placement and resolve borderline cases. Passing any assigned remedial courses is a prerequisite to taking college entry courses at the state universities. Community colleges maintain autonomy in developing remedial policies, but require or recommend placement based on the ACT, high school grades, and other examinations.

The CPE presented data indicating that the highest need of remediation is in English and Mathematics. Of the 1994-95 high school graduates who took a math course during their first semester, over one-third of the university students and over two-thirds of the community college students took a remedial course. Of those students who took English, 15% of the university students and between 7 and 10% of the community college students took a remedial course. Regarding

pass rates in 1991-93, data indicate about 60% of university students and about 58% of community college students pass remedial math and 75% of university students and 65% of community college students pass remedial English. It is significant that remedial students are found to be just as, or more successful in entry level courses as those students who do not require remediation. Similarly, evidence shows that a student in need of one remedial course has a higher success rate of completing studies than students requiring remediation in more than one subject.

University remedial education programs are largely self-supporting, through tuition and state funding. In 1994-95, net state funding for instruction in developmental courses at the state universities was \$108,900. State funding for the community colleges' remedial education programs was about \$2 million during this same period. This cost is not unexpected, in view of the fact that an important role of community colleges is remediation. In 1994, the Council reported that over one-third (46,000) of 132,000 undergraduate students in Kentucky were enrolled in community colleges.

With this overview, the Task Force toured the campuses of the University of Louisville and Jefferson Community College. Both are urban institutions, but with divergent missions inherent to two- and four-year institutions. In this connection, representatives of the university and the community college have acknowledged the existence of an articulation agreement concerning the sharing of professors.

With Jefferson Community College adopting an open door admissions policy, it provides access to higher education to the traditionally underserved population, the undereducated high school graduate, the adult learner and international students to whom English is a second language. Increasingly, the nontraditional student population is primarily over 25 years of age, attends classes on a part-time basis and supports a family. Jefferson Community College enrolled over 10,000 students, with over 3,000 registered in remedial programs in 1994. Developmental learning programs at the community college are integrated throughout the curriculum and instructors teach both developmental and college level courses.

The Division of Transitional Studies at the University of Louisville is composed of a comprehensive academic support center that provides instruction, counseling, and advice to students in developmental and remedial programs, and in supplemental studies that are open to all students. In the 1996-97 school year, first time freshmen in transitional studies numbered over 500 and constituted 30% of the freshman population, whose average age was 19. About 20% (2,425) of the 13,000 undergraduate students took at least one developmental course. With a history of providing equal educational opportunities to unprepared, disadvantaged students from isolated areas, the university recognizes the need to balance access

and equity while retaining its integrity and credibility as an academic and research institution.

A consultant provided an overview of developmental learning programs conducted in state postsecondary institutions. While the majority of states in the southern region have statewide admissions criteria for remedial and developmental placement, four states, including Kentucky, rely on institutional policies. Nationally, eleven states have enacted statutes or have proposed to prohibit remedial education courses at four-year institutions and six states are considering the proposal to require high schools to pay for remediation of students with deficiencies. Components related to academic success and the outcomes defining successful developmental programs were also discussed.

The task force discussed the revision of the high school curriculum and graduation requirements proposed by the Kentucky Board of Education. A revised program of studies will establish minimum course requirements that are aligned with the academic expectations. With the number of credits required for graduation increasing to 22, the objectives of the higher standards are to ensure that teaching and instruction increase the performance level of Kentucky students and prepare them for postsecondary education or the workforce. The task force noted that while the potential to decrease the number of students taking remedial education courses does exist, the need for remediation will continue and the postsecondary education community should be involved in developing and coordinating high school and introductory college curriculums.

Proposed Changes in Developmental Studies

Recommendations for changes in the developmental studies programs at the institutions were developed by the Jefferson Community College and University of Louisville Joint Planning Committee, whose mission was to identify opportunities for cooperation and improved services at the institutions. The following recommendations were presented to the Task Force by the presidents of the institutions, with the expectation that the financial impact of the proposed changes would be determined and considered during the institutions' next budget review.

1. Eliminate the option to "test-in" to University of Louisville (U of L) as part of the admission process. The university admission requirement becomes - ACT score of 16 or grade point average of 2.25.
 - A. Provide students who do not meet the requirements a referral to Jefferson Community College (JCC) for the completion of developmental courses. JCC agrees to give them priority enrollment and agrees to test students to identify which developmental courses will be required. U of L agrees to

guaranteed admission, with the JCC transcript showing completion of a series of developmental courses.

B. Implementation of this change for fall 1998.

2. Revise developmental courses to provide for the "mainstreaming" of developmental students.

A. Target date for implementation: fall 1999.

B. Develop specialized sections of English 101 and Mathematics 102 (possibly English 102).

1. Competency-based exit requirements will be developed for each course.

2. Students will take the course and repeat if necessary, until competencies are reached.

3. Students will pay full tuition for the first "round", then pay a reduced rate for subsequent times until passage.

4. A reading course, currently a developmental non-credit course, will be revised and offered for academic credit.

5. Faculty from English, Mathematics, and Transitional Studies will develop competency exams for exit from these courses (written, portfolio, or "other").

6. Faculty from English and Mathematics will work with existing Transitional Studies faculty to address any instructional issues, as well as to incorporate the labs, study skills, and other support services, currently provided by Transitional Studies, into the content of the specialized English 101 and Mathematics 102 courses.

7. Transitional Studies will retain responsibility for scheduling and staffing these courses. Additionally, related student services will continue to be provided by Transitional Studies and incorporated into the requirements of the specialized English 101 and Mathematics 102 courses, as they are now used within the non-credit developmental Mathematics and English courses.

8. The Director of Transitional Studies, English Department Chair, and Mathematics Department Chair will serve as overseers of the program.

9. Some determination will need to be made concerning those students who, because of Mathematics deficiencies, are enrolled in the current Mathematics 075 course.
 10. Where possible, ancillary developmental needs, such as study skills, should be addressed in the joint summer program, prior to first year of enrollment.
- C. Develop target program for implementation during fall 1998. Mainstreaming courses could be offered to student volunteers tuition free or at reduced tuition rates. Student outcomes will be assessed to determine whether mainstreaming is effective. If necessary, changes will be made in the final program, scheduled for implementation in fall 1999, based on student outcome assessment of the pilot program.

**REPORT OF THE 1996-97
TASK FORCE ON LOCAL GOVERNMENT TAXING STRUCTURES**

**Representative Arnold Simpson, Chair
Senator Gary Johnson, Vice Chair**

Rep. Adrian Arnold
Commissioner Bob Arnold
Donna Cantrell
Philip Ciafardini
Rep. Joe Clarke
James Coffman
Gregory Engleman
Rep. Walter Gee
Rep. Gippy Graham
Rep. J. R. Gray
Christina Heavrin
Sen. Paul Herron
Rep. Kathy Hogancamp
Mayor Charles Honeycutt

Sen. Nick Kafoglis
Vince Lang
Mayor Bert May
Sen. Denny Nunnelley
Judy Ratliff
Rep. Steve Riggs
Sen. Albert Robinson
Sen. Dan Seum
Tony Sholar
Jerry Stewart
Sen. Elizabeth Tori
Judge Thomas Turner
Deborah White-Dunlap

LRC STAFF: Jamie Jo Franklin, Donna G. Weaver, Mark E. Mitchell, Vida S. Murray,
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**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON CITY FINANCE

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Donna Cantrell
Philip Ciafardini
Rep. Joe Clarke
James Coffman
Gregory Engleman
Rep. Kathy Hogancamp

Mayor Charles Honeycutt
Sen. Denny Nunnelley
Sen. Dan Seum
Tony Sholar
Sen. Elizabeth Tori
Deborah White-Dunlap

Representative Arnold Simpson, Ex-Officio

SUBCOMMITTEE ON COUNTY FINANCE

Senator Paul Herron, Chair

Rep. Adrian Arnold
Commissioner Bob Arnold
Rep. Walter Gee
Rep. J. R. Gray
Christina Heavrin
Sen. Nick Kafoglis
Vince Lang

Mayor Bert May
Judy Ratliff
Rep. Steve Riggs
Sen. Albert Robinson
Jerry Stewart
Judge Thomas Turner

Representative Arnold Simpson, Ex-Officio

TASK FORCE ON LOCAL GOVERNMENT TAXING STRUCTURES

JURISDICTION: The 1996 General Assembly enacted 96 SB 179, which created the Tax Force on Local Government Taxing Structures. This task force was the realization of the need to assist local governments in the development of an adequate and stable tax base from which to provide the necessary services to and meet the needs of the citizens of the Commonwealth. The thirty-member task force was composed of legislators, executive branch representatives, city and county officials, and interested citizen members.

COMMITTEE ACTIVITY

The task force held its organizational meeting in November in Lexington, Kentucky, in conjunction with the annual meeting of the Kentucky Association of Counties. This meeting was thus scheduled to take advantage of the presence in one location of county officials from around the state.

At the Lexington meeting, the task force heard testimony from various county and city representatives regarding their needs and the problems which many of them are currently encountering regarding flexibility in the generation of local revenues for the provision and expansion of local services. Also at this meeting, the Chair announced the formation of two subcommittees in order for the task force to be able to complete its activities in a timely manner. The Task Force also developed a tentative work plan, which did not call for the full group to meet again until the completion of subcommittee activity. The Chair decided that this would allow the subcommittees adequate time to complete their activities and make their recommendations to the full Task Force.

At its second meeting, in July, 1997, the Task Force accepted the reports of its subcommittees: the Subcommittee on City Finance and the Subcommittee on County Finance. They then began going through the individual recommendations of each group. And lastly, they began a discussion regarding the different tax capacities of the seven states which surround Kentucky. Significantly, Kentucky was very similar to its neighboring states in terms of the type of taxes it levies and the level of taxes.

When the Task Force met in August, it was given an overview of the activities and recommendations of the Kentucky Commission on Tax Policy, which had been formed by the Jones administration to develop a better tax code for the Commonwealth.

The Task Force was then presented a national overview of state-local finance issues by a representative of the National Conference of State Legislatures (NCSL). The NCSL representative also gave the members a list of policy issues which have been identified as those that should be considered prior to any changes in a state's tax policies.

The final meeting of the Task Force took place on September 29, 1997. At that time, the group opted to compile a final list of twenty recommendations for submission to the Legislative Research Commission and the Interim Joint Committee on Local Government. Many of the recommendations came from the final reports of the subcommittees, but a few new

recommendations were added. The group opted not to prioritize this final listing, letting each recommendation stand independently, instead, for further consideration.

The final recommendations of the Task Force are as follows:

1. Create more flexibility in taxing methods for local governments through constitutional amendment and statutory changes.
2. There needs to be a legislative re-evaluation of the offsetting of local taxes.
3. There needs to be more encouragement and exploration of cooperative arrangements, agreements, sharing of taxes, shared services, and equipment between local governments, or local government officials and other governmental entities. There should be consideration of provision for incentives, if necessary (ex.: tax credits or funding). This should include multi-county agreements.
4. There is a lack of adequate funding for the incarceration of prisoners, including juveniles, by local governments. A reworking of the judicial system is needed, so that the state will absorb more or all financial responsibility for the incarceration of prisoners. This should include all costs for the incarceration of all prisoners from the initial time of incarceration.
5. There needs to be more accountability of special districts to local governments and an analysis of their total taxing authority, as well as the provision of adequate sanctions for noncompliance.
6. There need to be stricter requirements to be placed on the Revenue Cabinet to certify county property assessments in a more timely manner.
7. A local government data base with uniform reporting is needed.
8. Study feasibility of someone other than the sheriff collecting property tax bills, and in turn, fund the sheriff's office at an adequate level.
9. Members of the General Assembly should be encouraged to support the task force's recommendations on a bi-partisan basis.
10. There should be a reevaluation of the effects of increased road mileage in the road funding formula.
11. There needs to be a complete examination of the funding system for sheriffs' offices to ensure that funding is adequate for the service required.
12. All local governments should be encouraged to maximize existing revenues.
13. There should be a review of the penalties for failure to impose and collect taxes.
14. There needs to be legislation that increases the responsibility of an insurance agents or insurance companies, to require them to identify the correct location of policyholders for insurance premium tax collection purposes.
15. Current road fund levels are inadequate. There should be increased funding for all road funds.
16. Unfunded mandates need to be more intensively reviewed and considered by state government.
17. A better local government data base is needed, with consideration being given to a single depository for all such information.
18. Present local taxing options (insurance premium tax, occupational tax) should be protected until alternative funding mechanisms are in place.
19. Overall state and local tax reform should be considered simultaneously.
20. Area development funds to meet local needs should be restored.

Subcommittee on City Finance

The Subcommittee on City Finance held its organizational meeting in early December. At this meeting, the subcommittee was given a presentation by the Kentucky League of Cities regarding the findings from a recent league study relating to the financial condition of cities throughout the state.

At its January meeting, the Subcommittee heard various state tax experts present an in-depth review of the history and utilization of the three primary tax resources used by cities: ad valorem tax, the municipal insurance premium tax and occupational license fees.

At its February meeting, the Subcommittee continued its review of Kentucky's municipal tax base. At this meeting, they heard a discussion by a team of professors had prepared a research paper challenging whether Kentucky's cities actually need increased taxing authority. There was then a brief summary and discussion of special purpose governments, a.k.a. "special districts." The Subcommittee also heard the pros and cons about the creation, structure and function of special districts.

The Subcommittee turned its attention to roundtable work sessions at its March meeting. From the various work groups, the Subcommittee formulated an initial list of recommendations for the members to consider as part of their final report to the full Task Force.

At its final meeting, in April, 1997, the Subcommittee gave final approval to a prioritized list of recommendations which were to be forwarded to the full Task Force. In addition, the Subcommittee heard testimony from two city management professionals who pointed out that increased taxing authority is not the only area which needs to be reviewed in the effort to improve the capabilities of cities to effectively and efficiently provide for their citizens.

Subcommittee on County Finance

The Subcommittee on County Finance held its organizational meeting on December 4, 1996. At this meeting the subcommittee heard testimony from representatives of the Department for Local Government regarding the Department's recent experiences with county government finance issues and the financial problems which they see counties encountering most often.

At its next meeting, on January 8, 1997, the Subcommittee reviewed the current revenue sources available to counties. The Department for Local Government detailed the required duties and obligations of counties, the current financial methods by which they are funded, and the constraints under which they operate.

In their third meeting, the Subcommittee turned its attention to a discussion of the interaction of fee officers with the county revenue structure. Representatives of the county clerks and sheriffs discussed the issues of concern to their particular groups. The sheriffs indicated that their current funding levels were inadequate in relating to their responsibilities. The county clerks indicated that their funding levels were, for the most part, adequate.

At their meeting in March, the Subcommittee opted to break into roundtable work groups to begin formulating recommendations for submission to the full Task Force. During this

meeting, the work groups developed 21 recommendations for the full group to consider and prioritize.

The Subcommittee began its last meeting, in April, with testimony regarding the tax collection procedure in counties and how it affects fee officials. The last action of the group was the discussion, selection and prioritizing of the Subcommittee's final recommendations to the full Task Force.

**REPORT OF THE 1996-97
TASK FORCE ON POSTSECONDARY EDUCATION**

**Governor Paul E. Patton, Chair
Senator John A. "Eck" Rose, Co-Chair
Representative Jody Richards, Co-Chair**

Senator Charlie Borders
Mr. Rodney "Biz" Cain
Representative Larry Clark
Representative Freed Curd
Representative Danny Ford
Senator Nick Kafoglis
Ms. Crit Luallen
Dr. Viola Miller

Senator Joey Pendleton
Dr. Roy Peterson
Dr. James Ramsey
Senator Tim Shaughnessy
Representative Greg Stumbo
Representative Charlie Walton
Senator David Williams

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and Penny Dutton.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

TASK FORCE ON POSTSECONDARY EDUCATION

As directed by SCR 93, the Task Force on Postsecondary Education was established and began its study in June, 1996, for the purpose of developing recommendations and an implementation plan for a more efficient and effective system of postsecondary education in Kentucky. The task force was composed of twelve legislators and eight citizens appointed by the Governor.

JURISDICTION: The task force was directed to review the Strategic Plan for Kentucky Higher Education 1996-2000; the findings and recommendations from recent studies of higher education; the current status of efforts relating to the creation of a system of common course numbering; agreements to facilitate student transfer of credits; the equity and adequacy of the funding formula; performance funding; and the governance of higher education, community colleges, and vocational-technical education; and to report its findings and recommendations by September 1, 1997.

TASK FORCE ACTIVITY

During the organizational meeting of the task force, the Governor challenged the members to develop a blueprint for postsecondary education that will permit the Commonwealth to obtain the standard of living Kentucky citizens deserve. During this meeting, a former governor of North Carolina explained his state's system of higher education, much of which was established during his term. He indicated that Kentucky must be concerned about the changing economy and workplace needs, and be able to answer the questions of how workers can best be prepared for the next century, and how the system of postsecondary education can be reshaped. He said Kentucky's current system appears to be competitive instead of collaborative--a system that may be wasteful, under-utilizing the talent pool, and offering overlapping and duplicated programs.

The task force held ten meetings to review the current system and to analyze demographic data to determine the needs of future Kentuckians. Consultants to the task force gave a broad overview of higher education issues that included a discussion of Kentucky's diversity of regions, the overlapping governance and institutional boundaries, and the importance of investing in faculty and technology. They discussed the need for fundamental changes in teaching and learning, and particularly the way student competencies are measured. For comparison purposes, the consultants considered the 14 states that Kentucky competes with economically. The issues identified for comparison included:

1. Educational attainment: adult/workplace literacy and degree production;
2. Research capacity/competitiveness;
3. Enhancing quality of life: per capita income and poverty levels; and
4. Student retention: high school and college.

The task force established twelve advisory groups to prepare and present position papers to ensure that key stakeholders were involved in the development of the recommendation. Position papers were received from representative community college students, university students, university faculty, and community college faculty, and representatives of private institutions, councils and boards, KY Tech staff, and proprietary schools.

The task force engaged a public relations firm to conduct statewide focus groups among various stakeholder segments, to determine the public's perceptions and attitudes about postsecondary education. In summary, stakeholders said the ideal postsecondary education system would be one that teaches students all the skills deemed critical to lead productive, high-quality lives in the next century. The faculty would be knowledgeable, caring, and effective communicators, and the students and faculty alike would have many modern facilities and support services at their disposal. Stakeholders also felt there should be a more effective system in place for the transfer of credits between institutions. A central governing body would be used to coordinate this system, as well as other services and offerings.

The Commission on Higher Education Institutional Efficiency and Cooperation, a commission established by the Governor to gain input on the effectiveness and efficiency of academic program delivery and institutional management, reported its findings to the task force. The commission made several recommendations in the areas of coordinating program delivery, expanding opportunities, building excellence, and enhancing management.

In March, 1997, the consultants presented *Postsecondary Education in Kentucky: An Assessment*, a report that outlined the importance of Kentucky's postsecondary education system to its future, the barriers to achieving an efficient and coordinated system, and the goals for creating a comprehensive postsecondary education system. It identified the following as barriers to progress:

- Kentucky lacks a structure to link all of its postsecondary education resources with a long-range strategy to enhance the economic competitiveness and quality of life of its citizens;
- The current funding mechanisms for postsecondary education serve as disincentives for program efficiency and institutional cooperation;
- Postsecondary education offers virtually no incentives for the attainment of quality and the pursuit of excellence;
- Kentucky seriously lags the nation and competitor states in research and development activity; and
- The current system of postsecondary education has no comprehensive strategy to maximize the use of existing and emerging technologies.

On March 26, 1997, the Governor submitted to the task force *An Agenda for the 21st Century: A Plan for Postsecondary Education*. On April 14 - 15, 1997, the task force reviewed the plan and agreed that it should serve as a framework for legislation recommended for passage by the General Assembly when it meets in special session in May, 1997.

The Governor called a special session of the General Assembly to begin May 12, 1997, to consider legislation to restructure the postsecondary education system. On May 30, 1997, House Bill 1 and House Bill 4 were adopted by the General Assembly and signed by the Governor.

HOUSE BILL 1 - EFFECTIVE MAY 30, 1997

Kentucky Postsecondary Education Improvement Act of 1997

Goals:

Establishes general academic and research goals for postsecondary education to include:

- Strengthening the research programs at the University of Kentucky and the University of Louisville to be competitive nationally;
- Providing programs of national distinction and access to baccalaureate programs at each of the eight regional universities;
- Providing reasonable access to two-year liberal arts and technical degrees, remedial instruction, workforce training, and continuing education courses through a comprehensive community and technical college system; and
- Providing an efficient, responsive and coordinated system that delivers educational services competitive with the national average.

Council on Postsecondary Education:

Creates a new Council on Postsecondary Education to set long-range goals and a statewide postsecondary education strategic agenda. The council is to advise the executive and legislative branches, make and lead the budget process, and make recommendations on the incentive funds to advance the strategic plan. The council is to facilitate student transfer of credit, guard against unnecessary duplication, and coordinate program offerings at the institutions. The composition includes thirteen members appointed by the Governor, a faculty member, a student member, and the Commissioner of Education, who is a non-voting member.

Kentucky Community and Technical College System (KCTCS):

Creates a new Kentucky Community and Technical College Board of Regents to oversee two branches: thirteen of the fourteen community colleges currently administered under the University of Kentucky Board of Trustees and the twenty-five postsecondary technical institutions currently operated by the Workforce Development Cabinet.

The composition of the Board includes four regents appointed by the Governor from nominees of the UK Board of Trustees, and four regents appointed by the Governor from nominees of the Postsecondary Education Nominating Committee, and a student, faculty and staff representative from both the community colleges and the technical schools.

The KCTCS shares some responsibilities with the University of Kentucky to monitor program quality. The University of Kentucky is authorized to continue providing library, financial aid and other services for a fee. Certain degrees will carry the University of Kentucky name.

The local board of directors of each community college, previously an advisory board, was reestablished and given a role in hiring the community college president and submitting the budget request.

Investment and Incentive Funds:

Creates six trust funds, administered by the Council on Postsecondary Education, to drive improvements toward accomplishment of the strategic plan:

1. A research challenge trust fund,
2. A regional university excellence trust fund,
3. A technology initiative trust fund,
4. A physical facilities trust fund,
5. A postsecondary workforce development trust fund, and
6. A student financial aid and advancement trust fund.

Creates an adult education and literacy initiative fund, administered by the Workforce Development Cabinet.

Commonwealth Virtual University:

Creates a virtual university, under the Council on Postsecondary Education, to make academic programs available through television, the internet, and other technologies. The regional institutions will be the primary developers and deliverers of baccalaureate and master's degree programs.

Strategic Committee on Postsecondary Education (SCOPE):

Creates the Strategic Committee on Postsecondary Education (SCOPE), a committee composed of appointees of the Governor, the General Assembly, and the Council on Postsecondary Education, that will serve as a forum to discuss the future of postsecondary education in Kentucky; advise the council on goals, budget, and planning; and receive reports and recommendations from the council.

HOUSE BILL 4 - EFFECTIVE MAY 30, 1997

Allocates funding increases of \$40 million in FY 1997-98 for the revised postsecondary education system, including adult literacy, as follows:

- The base/equity funding component is intended to fund all universities and community colleges at least 95% of the current formula benchmark levels, to ensure institutional increases of at least 3% for FY 1997-98 and to equalize state support for doctoral research programs, including elementary and secondary education research. Funding support for the base/equity component, including new funds for the council, is appropriated at \$23 million in FY 1997-98, including \$11,768,700 for the community colleges and support for the administration of the system.
- The strategic investment and incentive funding component includes initial support to finance expanded doctoral research activities (\$6 million for the Research Challenge Trust Fund), progress toward development of nationally- recognized programs of distinction and applied research at regional universities (\$6 million for the Regional University Excellence Trust Fund), and KY Tech equipment (\$3 million for the Postsecondary Workforce Development Trust Fund). In addition, \$2 million is appropriated for the Adult Education

and Literacy Initiative Fund established by House Bill 1, which is administered by the Workforce Development Cabinet. The remaining trust funds (Technology Initiative Trust Fund, Physical Facilities Trust Fund and the Student Financial Aid and Advancement Fund) will receive appropriations in future years.

**REPORT OF THE 1996-97
COMMISSION ON POVERTY**

**Senator Gerald Neal, Co-Chair
Representative Freed Curd, Co-Chair**

Rep. Tom Burch	Sandra Barlow ¹
Sen. Walter Blevins ⁴	Lealar Barney ²
Rep. Barbara Colter ³	Judge Bill Clouse
Rep. Jesse Crenshaw	Pat Earles ⁴
Rep. Ernest Fletcher ⁴	Arnold Gaither
Rep. Jim Maggard ⁵	Dr. Rosalind Harris
Rep. Paul Mason	Ronald Lee Logsdon
Sen. Joey Pendleton	Stella Marshall
Sen. Dan Seum	Judy Martin
Sen. Robert Stivers	Dan Petronio
Sen. Elizabeth Tori	Laura Roberts
	Elizabeth Vega-Fowler ⁴

¹Replaced Lealar Barney

²Died during interim

³Replaced Rep. Ernest Fletcher

⁴Resigned during interim

⁵Legislative term expired December 31, 1996

LRC STAFF: Gilmore Dutton, Emily Fryer, Rose Mack, and Stewart Willis

OTHER CONTRIBUTING

LRC STAFF: Mike Clark, Dianna McClure, and Ginny Wilson

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

COMMISSION ON POVERTY

JURISDICTION: Senate Concurrent Resolution 96, enacted by the 96 Regular Session of the General Assembly, directed the Commission to:

- (1) Evaluate the ability of existing poverty and development programs, particularly legal services programs and public housing programs, to mitigate the causes of poverty in various areas of the state and among various categories of the poor, as identified by the 1994-95 Commission on Poverty;
- (2) Recommend improvements in state administered 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;
- (3) Promote public awareness of poverty in the state and initiate a dialogue between citizens and policymakers, with the goal of developing policy recommendations; and
- (4) Monitor the implementation of legislation based on recommendations from the 1994-95 Commission on Poverty, communicating with representatives from relevant state agencies during this process.

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

The Commission on Poverty was created by the General Assembly during the 1994 Session in recognition of a growing disparity in income levels among the citizens of the Commonwealth. 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. The 1990 census disclosed that one in every five of the Commonwealth's citizens lived in poverty, one in every four children in Kentucky lived in poverty, and one in every three African Americans in Kentucky lived in poverty. No geographic area was immune from this social disorder: poverty rates ranged from 15 percent of the population living on farms, to 16 percent of urban residents, to 22 percent of those living in rural communities.

The Commission verified these distressing conditions during the course of its inquiries during the 1996-97 interim. The Commission also observed that the state's poverty rates continued at unacceptable levels despite favorable rates of growth in personal income, relatively low statewide levels of unemployment, an unusually large number of institutions of higher education, a number five ranking among the states in state and local expenditures for public welfare per \$1,000 of personal income, and one of the most attractive economic development programs in the nation.

The 1996 Session reestablished the Commission for the 1996-97 interim to oversee the implementation of legislation introduced in its behalf and enacted in 1996, and to follow up on the numerous recommendations made by the Committee in its report to the General Assembly. The General Assembly was also motivated to continue the work of the Commission by the realization that the complexity and durability of the poverty phenomenon demand the constant vigilance of citizens and policymakers, that many potentially fruitful areas of inquiry remained unexplored, that the Commonwealth must remain vigilant about poverty, and that the Commission was the most effective vehicle to pursue these ends.

COMMISSION ACTIVITY

The Commission met thirteen times in general session; the first meeting was held on August 20, 1996, and the thirteenth meeting on November 5, 1997. The Commission also held a one-day retreat on the Kentucky State University campus to define the Commission's mission in light of the federal welfare reform act, and to identify key areas for Commission inquiry.

The initial meeting of the Commission on Poverty was devoted to the review of legislation introduced on behalf of the Commission during the 1996 Regular Session of the General Assembly, which failed to pass. Comments were solicited from affected agencies of state government and other interested organizations, in order to identify and eliminate unnecessary points of objection which would serve as a barrier to passage in the 1998 Regular Session. The Commission also heard from the Cabinet for Workforce Development regarding the implementation of SJR 83, a Commission resolution adopted by the 1996 Session, which required that "vocational-technical-occupational education and training programs of two years or less be based upon a planning process that uses local employers and available occupational, labor market, and educational training opportunities information to assure that program offerings match employment needs within their respective labor market areas."

The Commission's second meeting and several subsequent meetings were taken up with a discussion of the newly-enacted federal welfare reform legislation, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and Kentucky's response to its mandates. The Commonwealth's plan, named the Kentucky Transitional Assistance Program, or K-TAP, had been unveiled the day before the Commission's October 2, 1996, meeting, and a scant forty days since the federal legislation had been signed into law on August 22, 1996.

The federal act, with its revolutionary approach to the administration of welfare, including the replacement of the entitlement program, Aid to Families with Dependent Children, with a block grant to the states, and Kentucky's blueprint for transitioning recipients from welfare to work, K-TAP, were the dominant topics during the 1996-97 interim. The Secretary of the Cabinet for Families and Children and the Commissioner of the Department for Social Insurance met with the Commission on October 2, and one or both met with the Commission on six other occasions to provide the members with an update on K-TAP activities.

Included in the series of meetings on welfare-related issues was a panel discussion (December 16, 1996) on the state's efforts to meet the requirements of the federal welfare reform act. Moderated by the Secretary of the Cabinet for Families and Children, the panel consisted of representatives of the Workforce Development, Transportation, Health Services, and Economic

Development Cabinets, the Department of Education, and the Kentucky Housing Corporation, who, collectively, made up the Governor's Cabinet Secretaries Work Group on Welfare Reform. The following meeting of the Commission, February 20, 1997, saw the presentation of Jefferson County's and Lexington/Fayette Urban County's welfare-to-work plans. The Director of the Jefferson County Department for Human Services and the Commissioner of the Department of Social Services, Lexington/Fayette Urban County Government, presented for their respective local governments.

Other topics and issues taken up by the Commission during the interim included a proposal by the Cabinet for Families and Children to eliminate a portion of the child support payments received by single parents on welfare; the impact of the new federal minimum wage on employment and poverty in Kentucky; Northern Kentucky University's plan to accept programs completed at three Kentucky-Tech schools for credit toward an associate degree; the Workforce Development Cabinet's one-stop shop program for transitioning welfare recipients; low income housing needs in Kentucky's rural and urban areas; the expiration of Section 8 housing assistance payment contracts and the impact upon the availability of low income housing in Kentucky; long-term trends in Kentucky affecting the poor and poverty; dropout prevention and model Kentucky high school intervention programs; home schooling and its role in Kentucky's dropout problem; the challenge of welfare reform in Kentucky's rural areas; reduction in funding for residential centers for abused or neglected children and emergency shelters for victims of domestic violence; the transfer of funds earmarked for welfare recipients to cover a deficit in programs for abused and neglected children; the health insurance status of Kentucky's poor; health care programs for the poor in Kentucky; and an in-depth look at the causes and cures of urban poverty.

Prefiled Bills

The Commission authorized the pre-filing of two bills for introduction in the 1998 Session; one, BR 330, would establish a matching grant program to assist employers who provide child care assistance for their employees. The state would reimburse employers for half of their "qualified expenditures" up to a maximum of \$100,000.

The other pre-filed bill, BR 348, would establish, state-wide, a uniform residential landlord and tenant act. The legislation incorporates an existing uniform act which local governments currently may adopt on a voluntary basis.

Resolutions

The Commission adopted two resolutions, one directed to Kentucky's congressional delegation, the other to the state's Public Service Commission. The former resolution urged Congress to enact legislation which would increase the private activity bond cap from \$50 to \$75 per capita. Tax free (municipal) bonds which states use to finance various activities, including affordable housing programs, higher education student loans, and industrial development, are limited to a cumulative amount equal to the state's population multiplied by \$50. Increasing the bond cap would permit additional bond issues.

The latter resolution urged the Public Service Commission to adopt a plan which would generate the greatest amount of federal assistance in funding a subsidy to poor families to help pay for telephone service. The Federal Communications Commission (FCC)-sponsored "Lifeline"

program provides \$5.25 per low income household for help in paying monthly telephone bills. If a state puts up another \$3.50 per month, the FCC would add \$1.75, for a total of \$10.50 per month. The Commission felt that the higher monthly amount was necessary to have any significant impact on reducing the number of Kentucky households without telephone service.

Executive Correspondence

The Commission was so impressed with the logic of the Northern Kentucky University's articulation agreement with three technical schools that it wrote the Governor urging him to include in his special session legislative package on higher education reform a directive to the appropriate state agencies to develop a uniform, system-wide technical school articulation program. The product of the special session, HB 1, contained such a provision.

Pending Legislation

A dozen bill drafts, prepared at the direction of the Commission, await a decision on introduction and sponsorship. The legislative members of the Commission will meet early in the session, which convenes on January 6, 1998, to finalize the Commission's legislative package.

COMMISSION RECOMMENDED ACTION

In its report to the General Assembly, the Commission will recommend a number of specific actions to be undertaken by the General Assembly or its agency, the Legislative Research Commission. More significant recommendations will include the following:

- (1) Track the history of the newly unemployed to insure that welfare recipients are not displacing currently-employed workers.
- (2) Track the employment of welfare recipients by state government.
- (3) Track the employment longevity of welfare recipients.
- (4) Extend medical coverage to two years for newly-employed welfare recipients who do not receive health insurance as an employment benefit. Establish a realistic sliding scale for co-payment.
- (5) Extend the period of eligibility for child care and establish a realistic sliding scale for co-payment.
- (6) Recognize that work skills and life skills are necessary ingredients for gaining and retaining employment, and insure that all recipients have access to training in these areas.
- (7) Encourage the Department of Education to adopt the information packet developed by the Christian Home Educators of Kentucky, the Kentucky Home Education Association, and the Kentucky Directors of Pupil Personnel as the Department's "official" homeschool/private school information packet.

- (8) Encourage school superintendents and directors of pupil personnel to be diligent in their review of homeschooling notices, with follow-up actions, where required, to insure that "homeschoolers" are being schooled.
- (9) Require the Department of Education to report the number of students being homeschooled in each student district.
- (10) Repeal the 60-day written notification of withdrawal required of the parent, guardian, or custodial person prior to the termination of the education of a student between the ages of 16 and 18. [KRS 159.010(2)]
- (11) Recommend a permanent source of funding for the Affordable Housing Trust Fund administered by the Kentucky Housing Corporation. (As an alternative, recommend an income tax refund check-off payable to the trust fund.)
- (12) Commission a study to determine the impact of the expiration of Section 8 Program rental assistance contracts in Kentucky, with recommendations to the Legislative Research Commission.
- (13) Commission a study to determine the feasibility of developing a rail line-based commuter system from eastern and western counties to job sites.
- (14) Monitor local communities' development of welfare-to-work plans.
- (15) Authorize and require the Department of Education to review dropout prevention programs in the school districts in the upper one-third in terms of dropout rates, and make recommendations for corrective action.
- (16) Include alternative programs and alternative schools in the "best practice" recommendations from the Department of Education to local school districts.
- (17) Commission a study to determine the fiscal impact of Kentucky's system of taxation, including income, property, and excise taxes, upon families at or below federal poverty levels.
- (18) Recommend an increase in state funding for the College Access Grant Program.
- (19) Recommend an increase in state funding for child care benefits for K-TAP recipients.
- (20) Recommend an increase in state funding for transportation benefits for K-TAP recipients.
- (21) Recommend that the current service levels of Kentucky's Headstart Program be maintained for every eligible child.

- (22) Recommend that the General Assembly continue full funding of the free and reduced-priced school breakfast and lunch programs and the summer lunch program.
- (23) Recommend that the General Assembly appropriate for the 1998-00 biennium funds sufficient to serve at least 25 percent of the most educationally disadvantaged adult population in the Commonwealth.

**REPORT OF THE 1996-97
TASK FORCE ON PUBLIC EDUCATION**

**Senator David Karem, Co-Chair
Representative Harry Moberly, Co-Chair**

Representative Joe Barrows
Senator David Boswell
Representative Jim Callahan
Senator Lindy Casebier
Representative Stan Cave
Dr. Wilmer S. Cody
Dr. Merl M. Hackbart
Senator Ernie Harris

Dr. Ed Ford
Senator Gerald Neal
Governor Paul E. Patton
Dr. Roy P. Peterson
Representative Frank Rasche
Mr. Allen Rose
Representative Katie Stine
Senator Gex Williams

LRC STAFF: Bonnie Brinly, Ethel Alston, Anne Armstrong, Jerry Bailey, Audrey Carr,
Sandra Deaton, Penny Dutton, Mike Greer, Lora Hawkins, Pam Lester,
Rita Ratliff, Ellen Steinberg and Wanda Turley

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE 1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

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Ms. Janet Carrico	Mr. Gary Mielcarek
Representative Stan Cave	Dr. Leon Mooneyhan
Dr. Wilmer Cody	Ms. Helen Mountjoy
Mr. Martin Cothran	Representative Frank Rasche
Ms. Judy Farrow	Mr. Allen Rose
Mr. Victor Johnson	Mr. John Smith
Ms. Karen Jones	Senator Gex Williams

LRC STAFF: Bonnie Brinly, Anne Armstrong and Rita Ratliff

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Dr. Skip Kifer	Dr. Larry Sexton
Dr. Regina M. J. Kyle	Dr. Linda Sheffield
Dr. Joseph M Petrosko	Mr. Doug Terry
Dr. Ed Reidy	

FINANCE AND MANAGEMENT ISSUE GROUP

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Senator Ernie Harris	Ms. Carol Rich
Mr. Roger Marcum	Mr. Warren Rogers
Ms. Darlene Marshall-Ware	Representative Katie Stine
Dr. Dan McIntyre	Mr. Dwane Tucker
Ms. Vicky Moberly	Dr. Bob Wagoner
Senator Gerald Neal	

LRC STAFF: Ethel Alston, Jerry Bailey and Penny Dutton

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Dr. Jerry Austin
Dr. Donald Cobb
Mr. Dudley Cotton
Dr. Stephan Goetz

Dr. Jack Herlihy
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Ms. Carol Lamm
Dr. Roy Peterson
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LRC STAFF: Audrey Carr, Mike Greer and Wanda Turley

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Dr. John Fischetti
Dr. Tom Guskey
Dr. Jane Lindle
Mr. Don Hines

Dr. Ellen McIntyre
Mr. Bill Stearns
Dr. Jack Thacker
Dr. Russell Wall
Dr. Albert Walker

TASK FORCE ON PUBLIC EDUCATION

Senate Concurrent Resolution 94, enacted by the 1996 General Assembly, directed the establishment of the Task Force on Public Education. The task force was composed of eighteen members: six appointed by the President of the Senate, six appointed by the Speaker of the House of Representatives, and six appointed by the Governor.

JURISDICTION: The resolution directed the task force to review the status of elementary and secondary education, including issues related to governance, finance, and curriculum, to determine whether progress is being made in the establishment of an efficient system of common schools.

TASK FORCE ACTIVITY

The task force divided its work into three phases: gathering information, establishing issue groups, and developing final recommendations. The information gathering efforts included public hearings, school visits, a telephone opinion survey, and a review of the research. Based on this work, the co-chairs appointed task force and citizen members to issue groups to study the identified problems and make recommendations. During the final phase, the task force reviewed the work of the issue groups and made its final recommendations.

The task force held six meetings during the interim. At the first meeting, the task force reviewed the 1989 Kentucky Supreme Court ruling, *Rose v. Council for Better Education, Inc.*, declaring the entire education system unconstitutional, which led to the subsequent passage of the Kentucky Education Reform Act of 1990. Also at the meeting, the task force adopted its work plan and timeline.

The co-chairs appointed three teams, each assigned to hold public hearings and visit school districts in two Congressional districts. The teams held a total of 18 public hearings, with 856 people signing attendance sheets and 298 speakers. The teams also visited a total of 29 schools in 12 school districts.

During the public hearings, the teams heard divided opinion about the reform initiatives in general; several speakers cited positive changes in teaching and learning, while others voiced concern that the changes are lowering standards. All three teams heard general agreement from those testifying that extended school services, the family resource and youth service centers, and the preschool initiatives are working well. The area of curriculum standards, assessment, and accountability generated more comment than any other, with a wide variety of opinion reflected. Several issues relating to the funding formula and additional funding needs were also mentioned.

The task force held a two-day meeting in December, 1996, to consider reports from the public hearing teams, findings from the telephone survey, the Office of Education Accountability's annual report, and an overview of the research on reform initiatives compiled by the Kentucky Institute for Education Research.

At the February, 1997 meeting, the co-chairs named three issue groups, charged with studying problem areas in greater depth: Assessment and Accountability, Finance and Management, and Teaching and Learning. The chairs also named a resource team, consisting of representatives from the Office of Education Accountability, the Kentucky Department of Education, and higher education institutions, to assist each group.

At the October and December, 1997 meetings, the task force heard testimony from representatives of the Education Ambassadors, received the reports from the three issue groups, and adopted the following recommendations.

TASK FORCE RECOMMENDATIONS

Assessment and Accountability

Standards and Curriculum

1. The Program of Studies should be revised to indicate common content organized by course and grade. The primary program should be considered as a whole.
2. The revised Program of Studies should go through the public process established for amending administrative regulations.

Assessment

1. The assessment should include a national referenced test that provides a national comparison for individual students.
2. The time spent on testing should be reviewed and reduced or redistributed.
3. The possibilities for expanding subject areas for writing portfolios should be explored.
4. The assessment system should continue to include a mixture of open-response items, multiple choice items, and portfolios.
5. The state's testing system should have greater emphasis on core academic content and basic skills, while retaining an emphasis on higher order skills.
6. If student scores are individually reported, the state testing system should provide valid and reliable scores for individual students.
7. Scores on the state test should be returned early enough to be used for diagnostic purposes and instructional improvement.

Accountability

1. The testing for accountability should include questions based on Kentucky core content for assessment, national tests, and a continued level of significant teacher involvement.

2. The single school score should continue, but the different parts of the school score should be publicized.
3. A broader variety of measures should be collected outside of the school score and reported to the public in the form of a school report card. The report card should include a parental involvement component.
4. The accountability system should be simplified, using the expected growth chart proposed by the Department of Education, beginning with the 2000-2002 cycle and continuing through the 2012-2014 cycle.
5. The Accountability Index Formula should be modified.
6. The nonacademic measures should be modified, and include at least attendance, retention, dropout rates, and transition to adult life.
7. One measure of the progress of schools should be based on measuring the same students over time in a technically sound way.

Consequences

1. The following components of the present system should be retained:
 - a. The school as the primary unit of accountability;
 - b. School consequences based on student measures.
 - c. Transferal rights of parents with students enrolled in schools in crisis;
 - d. The School Improvement Plan; and
 - e. Grants from the Commonwealth Improvement Fund.
2. The following components should be modified:
 - a. Penalizing successful schools that have not improved;
 - b. Providing more incremental steps between consequences;
 - c. Incorporating a team review process, which could include the Distinguished Educator;
 - d. Reviewing the negative pattern of consequences for staff; and
 - e. Communicating clearly to the public regarding school performance.
3. The Distinguished Educator program should receive increased funding.
4. Rewards need to be modified so that they are distributed and spent to benefit the school and the students, rather than paid to individuals as bonuses.
5. Individual students should be held more accountable for their academic performance.
6. The probation status for individual staff in a school in crisis should be removed upon completion of a satisfactory evaluation.

Teaching and Learning

School-Based Decision Making

1. Amend KRS 160.345(2)(a) to increase the number of parents on school councils from two (2) to three (3).
2. Amend KRS 160.345(2)(a) to allow a parent representative to serve on the council, unless the parent is an employee or a relative of an employee of the particular school or an employee or a relative of an employee in the central office.
3. Create a new section of KRS Chapter 160 to require that the public be fully informed regarding school-based council budget allocations, including the figures used to allocate the funds, the funds reserved by the school district, and the intended use of the district reserve funds.
4. Amend KRS 160.345(2)(h) to include a requirement for the council to develop procedures it will use for consultation in the selection of personnel.
5. Amend KRS 160.345(5) to require the district to report to the Kentucky Board of Education the parent and faculty vote when requesting an exemption of a school from having a council.
6. Amend KRS 160.345(9) to require the Office of Education Accountability (OEA) to develop a uniform, confidential complaint process; to protect anyone bringing a complaint from punitive action or retribution; and requiring the OEA to resolve the complaint within six (6) months or to forward the complaint to the Kentucky Board of Education .
7. Amend KRS 160.345(2)(b)1 to allow consecutive terms of school council members when the council adopts different terms of office.
8. Amend KRS 160.345(2)(b)1 to require that the chair of the school council be elected by the council from its membership, rather than requiring that the principal or head teacher serve as chair.
9. Amend KRS 156.101 to require that the local district evaluation system include criteria relating to the evaluation of the school principal's performance as a member of a school council and in implementation of the decisions of the council. Amend KRS 160.345 to require that the local district establish procedures for gathering information from the council for consideration in the school principal's evaluation by the superintendent.
10. Request that the Kentucky Department of Education and the appropriate subcommittee of the Interim Joint Committee on Education review the school council budget allocations and the process of professional development decision making within school districts.
11. Request that the Task Force recommend to the Kentucky School Board Association that school boards explore a more collaborative approach to the budget making process that involves various community groups, teachers, parents, and school council representatives.

12. Amend KRS 160.345(2)(a) to remove the state residency requirement for teachers serving on school councils.
13. Amend KRS 160.345(5) to allow a newly created school to apply to the Kentucky Board of Education for an exemption from the requirement to implement school-based decision making upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, and provide that the state board shall grant the exemption.

Primary Program

1. Amend KRS 158.6453(4) to require that each elementary school collect data on the number of years needed for students to complete the primary program and that the school district publish the data in the annual performance report.
2. Amend KRS 160.345(6) to require that options for implementing the primary program be provided in school-based decision making training.
3. Amend KRS 156.160 to add the 1996 Budget Memorandum language relating to the multi-age groupings within the primary program.
4. Request the Budget Review Subcommittee on Education, the Finance Division of the Kentucky Department of Education, the Office of Education Accountability, and the Interim Joint Committee on Education to review alternative recommendations to accomplish the goal of school certified personnel staffing plans that provide equitable teacher-to-student ratios for all primary program classrooms.
5. Request the Department of Education to make available to superintendents, district curriculum supervisors, principals, building level primary teacher contacts, and regional consultants, Dr. Tom Guskey and Dr. Jane Lindle's review of research on the primary program.
6. Recommend to the General Assembly that in considering budget priorities for education, high priority be given to lowering class size in the primary program and grades 4 and 5, or to funding a full-time qualified paraprofessional, employed solely for instructional purposes.
7. Recommend that teacher education programs provide their students competence in phonics instruction.

Professional Development

1. Amend KRS 156.095 and KRS 158.070 to provide that teachers use the four days assigned in the school calendar for professional development to develop further understanding of curriculum content and to require that any professional development mandated by the district, state, or federal government be fulfilled on extended time or released time.

2. Require that the Kentucky Department of Education contract with an outside consultant for an analysis of the current status of professional development compared to an ideal model demonstrated by high performing and blue ribbon schools. The consultant should be familiar with education reform in Kentucky. The analysis should be submitted in writing to the Kentucky Department of Education by October 1998.

The analysis should include specific recommendations regarding:

- a. The effective advancement of a market system for supply and demand (for vendors and consumers) of professional development, and
- b. The development and dissemination through the Internet and other appropriate means of consumer information concerning specific professional development opportunities.

The analysis and implementation of the recommendations should be funded from the professional development funds appropriated to the Kentucky Department of Education. The Kentucky Department of Education should publicly report its actions in implementing the analysis recommendations every six months.

3. Recommend that professional development programs be made available to provide teachers competence in phonics.

Alternative Certification

1. The General Assembly should appropriate additional funds to develop a minimum of six alternative certification models between local school districts and universities.

ASSESSMENT AND ACCOUNTABILITY ISSUE GROUP

CHARGE: The issue group is charged with determining how well the assessment and accountability program is moving schools toward achievement of the goals set by the Kentucky Supreme Court (KRS 158.645) and the General Assembly (KRS 158.6451).

ISSUE GROUP ACTIVITY: The group held eight meetings between March and August, 1997 to consider issues relating to the reliability and validity of the state assessment system and the school accountability index. During the initial meeting, the group reviewed the 1989 Kentucky Supreme Court ruling, *Rose v. Council for Better Education, Inc.*, including the seven student capacities and the nine characteristics of an efficient system of common schools. The group also reviewed the underlying principles that guided the work of the 1989 Task Force on Education Reform. The group adopted these principles to guide its work, but made changes to better reflect the views of the members, and adopted a work plan.

The members also identified three primary concerns for the group to address during the course of its work: (1) creating a valid system of assessment and accountability that works and gains public confidence; (2) incorporating student accountability; and (3) providing clear curriculum guidelines that include learning basic skills.

The issue group heard testimony from several presenters concerning standards and curriculum, assessment, and accountability. The Resource Team provided additional testimony and feedback during the course of the group's work. A summary of these presentations is outlined below.

The chair appointed a working group from the membership to identify questions for consideration by the issue group prior to three meetings. The issue group determined that the present system of assessment, accountability, and consequences should be refined or modified, as opposed to remaining the same or being abandoned. The group also considered how various education constituencies should be held accountable and the appropriate consequences for each.

The issue group also considered proposals developed by the Kentucky Department of Education, the Kentucky Education Association, one member of the resource team, and the Office of Education Accountability (OEA), working in cooperation with several education interest groups. During the final three meetings, the group used the assistance of a facilitator to finalize its recommendations. The group submitted a final report, including recommendations and minority reports, to the task force.

TEACHING AND LEARNING ISSUE GROUP

CHARGE: The issue group is charged with reviewing issues relating to three main study areas: (1) Instruction and student achievement; (2) School-based decision making; and (3) The primary program, and determining whether these areas are contributing to the achievement of the goals set by the Kentucky Supreme Court (KRS 158.645) and the General Assembly (KRS 158.6451).

ISSUE GROUP ACTIVITY: The Teaching and Learning Issue Group, composed of six task force members and ten citizens, met eight times to consider issues relating to school-based decision making, primary education, teacher preparation, and professional development and related teaching and learning issues. During the initial meeting, the group reviewed the 1989 Kentucky Supreme Court ruling, *Rose v. Council for Better Education, Inc.*, including the seven student capacities and the nine characteristics of an efficient system of common schools.

The group reviewed current regulations and statutes in these areas; listened to the views of citizens, local district personnel, and education interest groups; solicited expert testimony; reviewed research; and heard status reports and recommendations from the Kentucky Department of Education regarding the implementation of programs and administrative functions in these areas.

FINANCE AND MANAGEMENT ISSUE GROUP

CHARGE: The issue group is charged with determining how well the finance system is moving schools toward achievement of the goals set by the Kentucky Supreme Court and the General Assembly (KRS 158.645 and 158.6451).

ISSUE GROUP ACTIVITY: The Finance and Management Issue Group conducted seven meetings between March and November, 1997. In keeping with the charge of the issue group, the initial meeting was devoted to an overview of the Supreme Court ruling, *Rose v. Council for Better Education, Inc.*, Ky., 790 S.W.2d 186 (1989), and the system of education reform in Kentucky, including the goals for student achievement, school governance, and the Support Education Excellence in Kentucky (SEEK) Program.

Research on school finance and governance, conducted by the finance consultant to the 1989 Task Force on Education Reform, the Kentucky Institute for Education Research, the Office of Education Accountability, and several resource team members, guided the issue group in identifying issues and questions for discussion.

The chair of the issue group requested that the members, resource team and representatives of the education interest groups submit recommendations for consideration. Proposed recommendations were drafted and presented by the chair for discussion. After further comment by issue group members, the final report, including recommendations and minority reports, was submitted to the Task Force on Public Education.

**REPORT OF THE 1996-97
SPECIAL SUBCOMMITTEE ON VETERANS' AFFAIRS**

Representative Eddie Ballard, Chair

Rep. John Adams	Sen. Virgil Moore
Sen. Charlie Borders	Rep. Steve Riggs
Sen. David Boswell	Sen. Albert Robinson
Rep. James Bruce	Sen. Larry Saunders
Rep. Robert Damron	Rep. Charles Siler
Rep. Walter Gee	Sen. Dan Seum
Rep. Drew Graham	Sen. Robert Stivers
Sen. Paul Herron, Jr.	Sen. Elizabeth Tori
Rep. Jimmie Lee	Rep. Mike Weaver
Sen. Barry Metcalf	Sen. Jack Westwood
Rep. Lonnie Napier	Rep. James Zimmerman

LRC STAFF: Rob Williams, Melvin LeCompte, Wilda Bond, and Wanda Turley.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

TASK FORCE ON VETERANS' NURSING HOMES

Sen. Dan Seum, Chair

Larry Arnett

George Ellerkamp

Adj. Gen. John Groves

Howard Howells

Sen. Larry Saunders

Rep. Charles Siler

Sen. Elizabeth Tori

Rep. Mike Weaver

Rep. James Zimmerman

Representative Eddie Ballard, Ex-Officio

SPECIAL SUBCOMMITTEE ON VETERANS' AFFAIRS

JURISDICTION: gather information, set legislative priorities, act as a sounding board on behalf of Kentucky veterans relative to issues affecting them, and present recommendations to the 1998 Kentucky General Assembly.

SUBCOMMITTEE ACTIVITY

During the 1996-97 Interim, the Special Subcommittee on Veterans' Affairs held 12 meetings prior to November 1, 1997. Two subcommittee meetings were held outside of Frankfort: the March 1997 meeting was held at the Kentucky Veterans Center in Wilmore and the August 1997 meeting was held at Veterans of Foreign Wars Post 696 in Owensboro.

The Special Subcommittee was organized into one subcommittee, the Task Force on Veterans' Nursing Homes. Following is a summary of activity of the Special Subcommittee and the Task Force.

The Joint Executive Council of Veterans Organizations (JECVO) presented the subcommittee with the following legislative recommendations for interim study:

1. Construct two additional state-run veterans' nursing homes;
2. Authorize construction and operation of state-run veterans' cemeteries; and
3. Fully fund the operations of the Department of Veterans' Affairs, including the hiring of a Commissioner.

The three issues presented by JECVO constituted the primary focus of the subcommittee's interim meetings. Other major issues discussed included: the operation of the Kentucky Veterans Center at Wilmore; the issuance of veterans' license plates; projects funded by the Kentucky Veterans' Program Trust Fund; an increase in the membership of the Governor's Advisory Board for Veterans' Affairs; treatment programs for veterans suffering the effects of Persian Gulf Syndrome and exposure to Agent Orange; veterans' tuition assistance and other benefits; the reorganization of and budgetary impacts on the U. S. Department of Veterans' Affairs; care provided by Veterans Health Administration Medical Centers and outpatient clinics; construction of the National Women Veterans Memorial in Washington D.C.; expansion of the Kentucky Vietnam Veterans Memorial; the need for additional nursing home beds; the qualifications of and selection criteria for a Commissioner of the Department of Veterans' Affairs; and designating Veterans Day as a paid state holiday;

The subcommittee toured the Kentucky Veterans Center at Wilmore and the Boone National Guard Armory and the Kentucky Vietnam Veterans Memorial at Frankfort.

The subcommittee adopted the following resolutions: honoring Major John W. Adams, Jr.; honoring Major Carl H. Dodd; honoring retiring Representatives Kaye Bondurant, Jim Maggard, Ramsey Morris, Jr., and Richard Turner; honoring Dawn M. Smith; commending the Kentucky Air and Army National Guards; honoring James E. Welch; urging the Governor to consider the legislative priorities presented by JECVO; supporting designation of Kentucky State Road 29 as a scenic byway; and honoring Bea Hood.

At the request of the Interim Joint Committee on State Government, the subcommittee reviewed two executive reorganization orders: Executive Reorganization Order 97-733, which created the Office of the Commissioner of the Department of Veterans' Affairs within the Office of the Governor; and Executive Reorganization Order 97-1161, which increased the membership of the Governor's Advisory Board for Veterans' Affairs from five to seven members. The subcommittee reported its findings regarding the reorganization orders to the Interim Joint Committee on State Government.

The subcommittee prefiled the following pieces of legislation for the 1998 Regular Session:

- 98 RS BR 158, which authorizes the construction and operation of state-run veterans' cemeteries;
- 98 RS BR 801, which appropriates funds for the construction of two additional state-run veterans' nursing homes; and
- 98 RS BR 997 and 998, which urge the LRC to reestablish the Special Subcommittee on Veterans' Affairs.

Other prefiled bills for the 1998 Regular Session relating to veterans' affairs include:

- 98 RS BR 179, which exempts disabled veterans from Kentucky hunting and fishing license fees;
- 98 RS BR 193, which urges that the POW/MIA flag be flown daily at the Kentucky Vietnam Veterans Memorial;
- 98 RS BR 499, which renames the Kentucky Veterans Center in honor of Lieutenant Colonel George Thomson and Mrs. Beatrice Hood; and
- 98 RS BR 921, which relates to operational funding for veterans' nursing homes.

Task Force on Veterans' Nursing Homes

The Task Force on Veterans' Nursing Homes held four meetings during the 1996-97 Interim for the purpose of analyzing construction and operating costs of two additional 120-bed state-run veterans' nursing homes and devising a strategy for gaining executive and legislative support for funding the additional homes. The major issues concerning the task force were: whether Kentucky should commit construction funding for two additional veterans' nursing homes; and whether the daily cost of care for a veteran in a state-run veterans' nursing home would be higher or lower than the daily cost of care in a private Medicaid-supported nursing home, and therefore result in cost saving or an additional expense to the General Fund.

The task force reviewed the state's preapplication submitted to the U. S. Department of Veterans' Affairs for construction funding for the two additional nursing homes on the basis of a 65% federal/35% state match. The task force also reviewed studies prepared by the Kentucky Department of Veterans' Affairs' and the LRC Staff Economist's Office concerning the construction and operating costs.

The task force recommended to the subcommittee that Kentucky should commit its share of construction funding for the two additional state-run veterans' nursing homes. The task force determined that, largely due to non-comparability of some state cost of care nursing home data, any cost savings related to the operation of additional state-run veterans' nursing homes are indeterminable at this point. The task force recommended to the subcommittee that the operational funding for the additional nursing homes be appropriated in future biennia if construction funding is first provided by the federal government.

On September 3, 1997, some members of the task force presented their findings to the Governor and urged him to support the construction and operation of the additional veterans' nursing homes by including funds for the projects in the next biennial budget.

**REPORT OF THE 1996-97
TOBACCO TASK FORCE**

**Senator Joey Pendleton, Chair
Representative Jim Bruce, Vice-Chair**

Rep. John Adams	Sen. Vernie McGaha
Rep. Royce Adams	Rep. Tom McKee
Rep. Woody Allen	Sen. Virgil Moore
Rep. Adrian Arnold	Rep. Lonnie Napier
Rep. John Arnold, Jr.	Rep. Fred Nesler
Rep. Sheldon Baugh	Rep. Billy Polston
Sen. Fred Bradley	Rep. Marie Rader
Rep. Denver Butler	Sen. Albert Robinson
Sen. Tom Buford	Sen. Richie Sanders, Jr.
Rep. Jack Coleman	Rep. Dottie Sims
Rep. Robert Damron	Rep. John Will Stacy
Rep. Walter Gee	Rep. Jim Stewart
Rep. Jim Gooch	Rep. Roger Thomas
Rep. Drew Graham	Rep. Tommy Turner
Sen. Paul Herron	Rep. Mike Weaver
Rep. Charlie Hoffman	Sen. Gex Williams
Rep. Jim Lovell	Rep. Pete Worthington
Rep. Allen Maricle	Rep. Brent Yonts

LRC STAFF: Andrew Cammack, Biff Baker, and Lisa Thomas

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

TOBACCO TASK FORCE

JURISDICTION: matters pertaining to tobacco production, the price support program, no-net cost assessment, tobacco "pool," tobacco imports and exports, and any matter pertaining to the tobacco industry.

TASK FORCE ACTIVITY

The Tobacco Task Force has met 11 times through August, 1997.

At the Task Force's first meeting, members heard officials discuss the mission and direction of the Tobacco and Health Research Institute at the University of Kentucky. The Institute is supported by a portion of the state cigarette tax, and investigates issues relating to the tobacco plant and to smoking and health. Institute officials explained that the Institute is increasing its focus on biotechnology, and is exploring the possibilities for genetic engineering of the tobacco plant to produce pharmaceuticals and other substances that could have commercial value for Kentucky tobacco farmers.

At the Task Force's third meeting, members toured the Biosource Technologies, Inc. Owensboro facility, which is involved in extraction of bioengineered tobacco products. Biosource uses the tobacco plant as a system in which to produce pharmaceuticals by infecting the plant with a genetically engineered virus, then harvesting the plant and purifying the product. By the end of the interim Biosource had expanded the operation, a move the Task Force had supported. The company is promoting research and training and is cooperating with the Tobacco and Health Research Institute.

UK College of Agriculture officials discussed the 1996 burley crop at the second Task Force meeting. Early cold, wet weather and disease, followed by extended dry weather, caused some reduction of yield. Together with the poor beef market, the reduced yield was expected to cause financial trouble for some farmers. A number of disease problems plagued the burley crop, especially the blue mold fungus. Some of the blue mold resulted from increased use of the float system to produce transplants. Though blue mold was introduced from a variety of sources, officials stated that enough of it originated from tobacco transplants grown in the state that a law stopping transplants from coming from out of state would not stop the problem. Officials added that Kentucky is vulnerable to plant disease problems because it does not have a comprehensive plant law and is potentially a dumping ground for diseased plants from other states. Officials also noted that the federal government no longer funds tobacco research, and that the state needs to address this need.

At the second meeting, a motion was adopted to applaud Motorola Inc. for rescinding a smoking ban on its properties. At the third meeting, the Task Force adopted a resolution opposing the federal Food and Drug Administration's regulation of tobacco as a drug.

The Task Force received an update on the teenage smoking prevention program at its fourth meeting. Senate Bill 137 prohibits the sale of tobacco products to minors. The Agriculture Department carries out the educational portion of the bill. The Department's

educational program includes a hotline and multi-media efforts and features Miss Kentucky lecturing in the schools. The Department also provides training to retail establishments. The Department of Alcoholic Beverage Control carries out the enforcement of the provisions of SB 137, including random unannounced inspections of retail establishments regarding sales to minors. The program must ensure that there is a decrease in underage purchase of cigarettes, or federal drug-use prevention grants will be withheld from the state.

Also at the fourth meeting, a Task Force member reported on attending a symposium involving tobacco farmers and health advocates. The member stated that farm interests were outnumbered, but they were able to make health advocates more aware of the tobacco farmer's situation.

The fifth meeting of the Task Force was held in Maysville, where members observed opening day burley sales at several warehouses and later held a public meeting. Members were pleased that tobacco sales were good, averaging around \$1.93 per pound. Discussions with farmers confirmed that this year's production fell short of available quota.

One of the primary focuses of the Task Force from the beginning of 1997 was the increase in the burley quota and efforts to produce the increased allotment.

Members attended the Tobacco Expo and heard discussions on blue mold and labor shortages, and looked at new tobacco-growing technology. Addressing these elements is important in increasing production.

The use of migrant labor was discussed at length. The tobacco industry is becoming increasingly dependent on migrant labor. The Task Force discussed the H-2A program and using green card workers in tobacco. The Task Force noted migrant labor requirements farmers must meet, such as OSHA regulations, workers' compensation, and housing. Members also discussed such problems as green card workers leaving the job and going to the highest bidder, paying workers in cash, and the impact of immigration reform.

The Task Force observed that, with regard to migrant labor, there is a need to get better information and assistance to farmers, encourage better management, work on housing, find ways to share workers, deal with language and health, and simplify paperwork. The Task Force urged the Farm Bureau, the Extension Service, and other state agencies to address migrant labor concerns.

The blue mold problem in Kentucky burley was a topic throughout the interim. Kentucky tobacco farmers lost \$200 million to blue mold in the 1996 crop year.

The Task Force has been working with legislation and regulations to address the blue mold problem. At its February, 1997 meeting (seventh meeting), the Task Force passed a resolution that encouraged the University of Kentucky to develop a blue mold resistant variety of tobacco. The Task Force noted that the cut-off of federal funds for tobacco research makes this more difficult.

As an interim step to address blue mold, the Ky. Department of Agriculture asked all commercial tobacco seedling producers both in-state and out-of-state to report Kentucky growers who have bought tobacco plants from them. This would allow the Department to track plants.

Because plants brought into the state from the south can bring blue mold into the state earlier in the year, Kentucky burley growers were encouraged to grow their own plants or buy them from a reliable nearby source.

During discussion on blue mold legislation, it was noted that, in the early stages of development, it is hard to detect contamination, making it hard to prove where the blue mold came from and pinpoint liability. Members asked how a farmer would be compensated if his crop or plants were required to be destroyed because of blue mold contamination. Members were informed by the Department of Agriculture that the Department wouldn't be involved in ordering restitution.

A UK specialist told the Task Force that a blue mold prevention program should include extensive education of the grower, control of transplant production, and having effective fungicides available.

University of Kentucky specialists discussed other ways to encourage tobacco farmers to produce the increased quota, including mechanization, labor saving devices, and affordable curing structures. Problems with adopting mechanization include leaf breakage, use of wooden sticks, small acreage, tenant and lessee's reluctance to invest, large investment requirements, and the uncertain future of tobacco. The Task Force looked at harvesting and housing machines, a stripping wheel, and innovative and low cost curing facilities.

In March 1997, The Task Force sent a letter opposing a push to withhold federal dollars for county agents to assist the tobacco farmer. The Task Force also adopted a resolution opposing the closing of Farm Service Agency offices in the state, and noted that tobacco farmers used the offices more than other commodity growers.

Because of a possible new interpretation of the Americans with Disabilities Act, the Task Force looked at smoking policy in Rupp Arena, where UK basketball games and many events and concerts take place.

The new interpretation may be that smoking in places of public assembly constitutes a barrier to those with acute respiratory conditions. Consequently, Rupp officials are looking at ways of avoiding the creation of such a barrier. Task Force members urged officials to provide some facilities to accommodate smokers.

At several meetings, the Task Force discussed the proposed settlement agreement between the tobacco companies and the states' attorneys general relating to tobacco-related health care costs. Members expressed concern that farmers had been left out of the negotiations and will be negatively impacted. They expressed their views that farmers' needs must be addressed, that the tobacco program must be preserved, and that farmers' quota and income must be protected. A letter expressing these views was sent to the President, the Secretary of Agriculture, and the Kentucky Congressional Delegation.

A congressman addressed the Task Force regarding the goals that should be satisfied by any settlement agreement, in order to address the needs of farmers and farming communities. The congressman stated that the first goal is to guarantee that the tobacco farmers will have an opportunity to produce the basic quota and get a fair price over the duration of the settlement. This would involve maintaining purchase intentions of the manufacturers at a certain level or compensating farmers if quota declines. The second goal is to protect and enhance the community that depends on tobacco. The third goal is to remove the tobacco program from the constant threats in Congress. The fourth goal is to make sure that the farmer has input into what he gets from the settlement. The congressman noted that he did not support a buy-out of quota, because it would take away the engine that runs the local communities' economies. The congressman said tobacco farmers who raise tobacco but do not own quota should be considered in the settlement.

It was noted that the settlement agreement would increase the budget of the FDA. Members stated that they wanted to keep FDA off the farm.

A representative of the Burley Coop discussed the settlement agreement. He too opposed a quota buy-out. He said it would not benefit most burley growers, since their quotas are small. He favored keeping farmers in the business of growing tobacco with a quota and prices high enough for them to make a living. It was suggested that a settlement agreement could serve to stabilize the economic future of the tobacco farmer.

The Task Force requested and received authorization to hold an additional out-of-town meeting to discuss the settlement agreement with the public, farmers, and government officials.

The Task Force discussed the tobacco companies' commitment to purchase at least the same amount of tobacco they bought last year for the next three years. This should provide some stability to burley farmers.

Members discussed the Farm Income Improvement Foundation, to which tobacco companies have pledged funds to help farmers, especially to help them make investments to help get the tobacco quota grown.

An official from the UK College of Agriculture was scheduled to address the Task Force in September. He was asked to discuss the settlement agreement and the tobacco situation and outlook.

A meeting was planned to observe opening day burley sales in Owensboro in November. A public meeting to address the settlement agreement was planned as a part of the November meeting.

**REPORT OF THE 1996-97
TASK FORCE ON FUNDING FOR
WILDLIFE CONSERVATION**

**Senator Joey Pendleton, Co-Chair
Representative Royce Adams, Co-Chair**

Senator Charlie Borders
Representative Dwight Butler
Representative Dennis Horlander
Representative William Scott
Joe Bland, National Wild Turkey Federation
Mike Boatwright, Kentucky Department of Fish and Wildlife Resources Commission
Earl Clemons, Governor's Office of Policy and Management
Taylor Davidson, AARP
Frank Elsen, Kentucky Waterway Alliance
Ben Hall, League of Kentucky Sportsmen
Bill Hintze, Kentucky Long-Term Policy Research Center
Stephanie Robey, Auditor of Public Accounts
Robert Rumpke, Kentucky Tourism Council
Steve Woodring, Trout Unlimited

LRC STAFF: Andrew Cammack and Lisa Dale Thomas

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

TASK FORCE ON FUNDING FOR WILDLIFE CONSERVATION

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

The Kentucky Department of Fish and Wildlife Resources derives most of its revenue from the sale of hunting and fishing licenses, and boat registrations. HCR 76 notes that license sales are declining and that license exemptions for individuals over 65 or disabled are increasing. It also notes that federal matching funds available to the Department are determined by the number of paid license holders. The resolution recognizes that the Department is obligated to conserve the wildlife of the Commonwealth and to serve all of her citizens. It states that it is not fair to ask the sportsmen and sportswomen of Kentucky to bear the complete financial burden for conservation programs which benefit all Kentuckians, and it directs that every avenue to fund current and expanded programs of the Department should be explored. It directs the Legislative Research Commission to appoint a Task Force on Funding for Wildlife Conservation to study, for the Commonwealth, the long-term funding needs and options for wildlife in the twenty-first century, and the methods by which these needs can be met. It requires the findings of the Task Force to be presented to the Legislative Research Commission by October 1, 1997.

TASK FORCE ACTIVITY

Since July of 1996, the Task Force met 13 times. Two of these meetings were held out in the state, to receive regional public comments on wildlife conservation funding needs. During its deliberations the Task Force developed an understanding of the Department of Fish and Wildlife Resources' programs, activities, regulatory responsibilities, and finances. It looked at other states' fish and game programs and their funding. The Task Force examined demographic and other trends in Kentucky that will affect the Department and wildlife conservation. The Task Force evaluated the economic impact of wildlife-based recreation and tourism in the state. In addition to the Department of Fish and Wildlife Resources, the Task Force heard from other agencies involved with wildlife conservation. Long-term projections for wildlife funding and needs were examined. A report was completed, recommendations were adopted, and legislation suggested. A summary of issues and conclusions, and recommendations from the report follow.

SUMMARY OF ISSUES, AND CONCLUSIONS

- Wildlife, wildlife habitat, and wildlife programs in Kentucky need support and financial assistance.
- The Task Force focused primarily on the Kentucky Department of Fish and Wildlife Resources' programs that address wildlife and on their serious funding needs.
- The Kentucky Department of Fish and Wildlife Resources derives most of its revenue from the sale of hunting and fishing licenses, and boat registrations.

- License sales are declining.
- Federal matching funds available to the Kentucky Department of Fish and Wildlife Resources are determined by the number of paid license holders.
- Exemptions from license purchases for those over 65 or disabled are increasing.
- The Kentucky Department of Fish and Wildlife Resources is obligated to conserve the wildlife of the Commonwealth and to serve all of her citizens.
- Presently sportsmen and sportswomen of Kentucky bear the complete financial burden for the Department's conservation programs which benefit all Kentuckians.
- Roughly 68% of those polled for the Task Force said they would favor creating some way for all Kentuckians to pay for fish and wildlife conservation and protection.
- It is desirable to broaden support for funding for wildlife to all Kentucky's citizens, since they all benefit from the wildlife programs.
- Without additional support, the Kentucky Department of Fish and Wildlife Resources faces funding problems which threaten wildlife conservation and wildlife related recreation.
- To put the funding problems in perspective: Even with a license increase in 1999, the Department needs an additional \$5 million per year in the short term to maintain present programs (to around 2003). With a \$5 license increase every 5 years, the Department projects a \$30 million short-fall by 2010.
- There are several ways to address the funding problem.

One way is to **raise hunting and fishing license fees** . Kentucky's license fees are about average to slightly higher than those of surrounding states. Increases in license fees will be necessary even if other funding sources are found, but there is a limit as to how high they can be raised without pricing them out of the range of many sportsmen. It has been estimated that a \$1 increase in the license fee reduces sales by 2 to 4%. Also, raising the license fees does not address the issue of broadening the long-term, equitable, financial support for wildlife conservation.

Another way to address the funding problem is to **provide General Fund moneys to the Department** to meet funding needs. The Department and many of its constituencies have consistently opposed this idea. With General Fund moneys come possible restrictions from the General Assembly, a dependence on another entity for funding, and competition for limited General Fund moneys. Some states' fish and game agencies do use General Funds for various purposes, more often for programs that are not specific to fishers and hunters.

Another option is to **cut programs**. Downsizing, efficiencies, and cooperation with other agencies may reduce costs. Significantly, in a poll conducted for the Task Force, 82% of the respondents favored finding ways to raise more money rather than cutting back on programs.

The Task Force looked at a number of **additional funding and savings options** for the short-term and long-term. These options are reflected in the following recommendations.

RECOMMENDATIONS

Three Primary Funding Recommendations

- The Task Force proposes to resolve the **over 65 /disabled license exemption** issue by recommending the enacting of legislation to require a \$5 combined license fee for those formerly exempt. This change would bring in \$1.7 million per year by increasing direct revenues and accessing federal matching funds. This change, along with a modest increase in license fees around the year 2000, along with a number of legislative and policy adjustments, will address the Department's short-term funding problems (through 2003).
- The Task Force recommends that a constitutional amendment be placed on the ballot for the vote of the people to **increase the sales tax by 1/8 cent to fund wildlife conservation**. This would address the wildlife conservation funding problems in the long-term. This initiative could generate approximately \$35 million per year. At least 50% of the funds are recommended by the Task Force to be provided to the Department of Fish and Wildlife Resources. The remainder of the funds would be shared with other agencies that conserve wildlife, in order to broaden support and effectiveness of the measure.
- The Task Force **supports passage of "Teaming with Wildlife" federal legislation** that would provide for additional funding for wildlife. This program would provide an estimated \$6 to \$8 million for certain Department programs, if enacted at the federal level.

OTHER RECOMMENDATIONS

The Task Force recommends that the Department or Legislature undertake to:

- Broaden the appeal for funding for wildlife to a wider constituency.
- Provide some means for all Kentuckians to pay for wildlife conservation.
- Increase commercial hunting/fishing license fees.
- Increase fees for non-resident hunting and fishing licenses.
- Seek corporate sponsors for Department funding.
- Look at ways to downsize some activities, contain expenses, and take advantage of efficiencies.
- Provide assurances that out-of-state people are buying out-of state licenses.
- Make fishing opportunities more available to urban populations and the disabled.
- Look at non-resident landowner treatment provisions.

- Coordinate the funding efforts for wildlife with those of the Tourism Cabinet.
- Combine provisions of KRS 235 into KRS 150, in order to allow a portion of Fish and Wildlife boating law enforcement fines to go to the Fish and Game Fund.
- Move boat registration fees from statute to regulation.
- Reduce reciprocal period for out-of-state boats from 60 days to 30 days and require registration. Consider slip rental to be prima facie evidence that a boat has resided in Kentucky.
- Remove ceiling on sport and commercial hunting and fishing license fees.
- Increase fines for violation of fish and wildlife and boating laws.
- Exempt the Kentucky Department of Fish and Wildlife Resources managed lands from recreational use statutes.
- Designate funds from the 1/8 cent tax as extra revenue and not replacement revenue.
- Require the moneys from the 1/8 cent tax to be used to benefit wildlife by whatever agency receives them.
- Make language in the proposed Constitutional amendment specific and stipulate how revenues from the 1/8 cent tax should be divided.
- Amend KRS 150.081 in such a way that it would continue to keep the Department out of political campaigns but would allow the Commissioner and the Department to participate in issues and activities that the Commission approves, such as a ballot initiative on a natural resource issue.
- Provide that funds of the Department held by an agent are held in trust rather than as part of the agent's business receipts, allowing the Department to get those funds up-front in bankruptcy proceedings.
- Coordinate the activities of the Department and other agencies involved in wildlife conservation to better address wildlife conservation needs, to take advantage of efficiencies and cost savings, and to broaden the constituency for funding.
- Consider increases in salaries for professional Department of Fish and Wildlife Resources employee classes.
- Report to the Interim Joint Committee on Agriculture and Natural Resources in November 1998 regarding progress on carrying out the recommendations of the Task Force.