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

1994-95

Informational Bulletin No. 194
Legislative Research Commission
Frankfort, Kentucky
December, 1995
FOREWORD

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

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

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

The Legislative Research Commission provides this informational booklet as a summary of the activity of interim joint, special, and statutory committees since adjournment of the 1994 General Assembly. The reports were prepared separately by the committee staff and were compiled and edited by Charles Bush, Research Editor.

Don Cetrulo
Director

The Capitol
Frankfort, Kentucky
December, 1995
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REPORT OF THE 1994-95
INTERIM JOINT COMMITTEE ON
AGRICULTURE AND NATURAL RESOURCES

Sen. Jeff Green, Co-Chair
Rep. Herbie Deskins, Jr., Co-Chair

Rep. Royce Adams
Rep. Rocky Adkins
Rep. Woody Allen
Rep. Adrian Arnold
Rep. Sheldon Baugh
Sen. Charlie Borders
Sen. Fred Bradley
Rep. Mark Brown
Rep. Jim Bruce
Rep. Jeffrey Buis
Rep. Dwight Butler
Rep. Jack Coleman
Rep. Hubert Collins
Rep. Barbara Colter
Rep. Brian Crall
Rep. Donald Farley
Rep. Mark Farrow
Rep. Rick Fox
Rep. Walter Gee
Rep. Drew Graham

Rep. Gippy Graham
Sen. Ernie Harris
Sen. Paul Herron, Jr.
Sen. Dan Kelly
Sen. Bob Leeper
Rep. Bill Lile
Rep. Jim Lovell
Rep. Jim Maggard
Rep. Allen Miracle
Sen. Virgil Moore
Rep. Ray Mullinix
Rep. Charles Nelson
Sen. Kim Nelson
Rep. Fred Nesler
Rep. Donnie Newsome
Sen. Joey Pendleton
Rep. William Scott
Rep. Billy Ray Smith
Sen. Elizabeth Tori
Rep. Richard Turner

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

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1996 REGULAR SESSION
OF THE KENTUCKY GENERAL ASSEMBLY
### SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

#### SUBCOMMITTEE ON AGRICULTURE

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#### SUBCOMMITTEE ON ENVIRONMENT

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#### SUBCOMMITTEE ON NATURAL RESOURCES

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#### EX-OFFICIO MEMBERS OF ALL SUBCOMMITTEES

INTERIM JOINT COMMITTEE ON
AGRICULTURE AND NATURAL RESOURCES

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

COMMITTEE ACTIVITY

The Interim Joint Committee on Agriculture and Natural Resources met 14 times during the 1994-95 legislative interim as of November 30, 1995. The Committee has permission to meet in December 1995. Possible agenda items for a December meeting are legislative proposals from state agencies for the 1996 regular session, a report on the state's biodiversity, and administrative regulations referred to the Committee in December. Two of the Committee's meetings were held outside of Frankfort: one a two-day meeting in Eastern Kentucky, and the other at the State Fairgrounds with members of the State Fair Board. The Committee's four subcommittees met 11 times during that period, making a total of 25 meetings during the interim.

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

Forestry

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

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

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

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

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

The Committee received a report on the Central Midwest Interstate Low-Level Radioactive Waste Compact, which is composed of Illinois and Kentucky. The compact was created as a result of Public Law 96-573, enacted by Congress in 1980. This federal law requires each state to be responsible for the nuclear waste generated within its borders, and allows states to create interstate compacts to dispose of the low-level nuclear waste. States in a compact may exclude nuclear waste from other states not in their compact. Kentucky entered the compact in 1986 and the compact was amended in 1994. Kentucky was not interested in being the host state for the disposal site because of the bad experience with the disposal site at Maxey Flats in Fleming County. The compact effectively prohibits Kentucky from becoming the host state for the disposal site because Kentucky generates only one to two percent of the low-level nuclear waste which Illinois
generates and the compact requires the host state to generate at least 10 percent of the total waste generated in the region.

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

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

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

Agriculture

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

The Committee met with the members of the State Fair Board at the State Fairgrounds during the 1995 State Fair. This was the eighth time the Committee had met with the members of the State Fair Board during the State Fair. The expansion of the Commonwealth Convention Center was discussed, as well as the progress of this year's State Fair. The State Fair Board mentioned that additional parking is needed, and the
Kentucky Fair and Exposition Center will need renovation from time to time because it is now about 40 years old.

**Eastern Kentucky Visit**

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

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

**Administrative Regulations**

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

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

**Reports**

House Bill 282 of the 1994 regular session created the Newsprint Recycling Task Force and required it to report to the Committee by October 1, 1995, "on the availability and cost of adequate supplies of newsprint..." This report was made and is discussed under the Subcommittee on Environment.
House Joint Resolution 81 of the 1994 regular session created the Task Force on Underground Coal Mining Penalties and required it to report quarterly to the Committee. No report has been made.

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

**Review of and Report on Reorganization Plans**

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

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

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

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

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

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

**Legislative Proposals Received from State Agencies**

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

**Resolutions**

The Committee approved a resolution to be sent to the Natural Resources and Environmental Protection Cabinet recommending that the Cabinet cease listing enforcement actions in the publication *Land, Air and Water*. 
The Committee sent a resolution and an accompanying letter requesting a representative of the University of Louisville to discuss the Kentucky Partners program for a second time before the Committee.

Prefiled Bills Referred by the Legislative Research Commission

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

- 96 RS BR 208, relating to cooperative agreements for transporting coal;
- 96 RS BR 290, promoting equine activities;
- 96 RS BR 376, relating to hunting and fishing licenses; and
- 96 RS BR 467, creating a seismic monitoring network.

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

Subcommittee on Agriculture

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

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

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

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

These recommendations are:
• Enhance the marketing system for Kentucky farm products - by restructuring the state Department of Agriculture's Division of Market Services and the Kentucky Council on Agriculture, and providing additional funding for more aggressive marketing, such as regional agriculture marketing centers and regional, national, and international trade shows.

• Sustain and enhance environmental and natural resource productivity - by appropriating additional money to the state Division of Conservation for the new cost-share program which assists farmers in implementing practices to protect soil and water quality;

• Achieve agriculture and production potential - by appropriating new funds to develop and implement agriculture programs, expand research activities, maintain facilities, and replace inoperable equipment at the departments of agriculture at the state's universities; and

• Expand agribusiness and value-added opportunities - by appropriating funds for agribusiness networks.

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

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

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

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

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

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

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

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

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

The study recommendations include:

1. Distribute maintenance information for homeowners to voluntarily improve lagoon maintenance.

2. Establish a routine maintenance and operation inspection program. Such a program would use a permit as an enforcement tool to assure that lagoons are properly maintained.

3. Conduct additional studies to properly assess protective set-back restrictions from water sources or sources of contamination.

4. Require the use of open weave fencing.

5. Improve training and standardization for inspections of on-site sewage disposal systems.

In addition, officials of the Cabinet for Human Resources have convened a group of interested agency representatives that is working toward recommending statutory changes to the laws governing lagoons used for on-site sewage treatment.
The Subcommittee also received a report from the Newsprint Recycling Task Force.

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

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

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

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

Subcommittee on Natural Resources

The Subcommittee did not meet this interim.

Subcommittee on Small Business

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

The first meeting was held Wednesday, March 8, 1995. This meeting was organized to inform the new Subcommittee members of the state agencies available to assist small businesses. A representative of the Air Quality Ombudsman, Office of the Secretary, Natural Resources and Environmental Protection Cabinet, explained the problems and importance of small businesses staying informed of and meeting new federal regulations. She also showed the vital and mandatory role she and the director of the Business Environmental Assistance Program (BEAP) have in assisting those businesses. Two representatives of the Cabinet for Economic Development spoke on financial incentives offered to small businesses. They spoke on tax incentives and the Kentucky Economic Development Finance Authority (KEDFA).
A representative of the Kentucky Small Business Development Center (KSBDC) network at the University of Kentucky explained that this is a university-based program which delivers services through fourteen regional centers throughout Kentucky. Each center is staffed with two people; one office manager/administrator and one field consultant. Funding (approximately $600,000 a year) comes from the federal Small Business Administration, the Cabinet for Economic Development, the University of Kentucky, and other universities. He said services are delivered on a one-to-one confidential consulting basis to small business owners or working with other networks within Kentucky. This network includes the ADD districts, the Cabinet for Economic Development regional offices, local chambers of commerce, and community college business liaisons, particularly cooperative extension offices. Also, the KSBDC conducts regional workshops and training programs, and sponsors small business conferences. He described the various ways in which the KSBDC helps new and existing small businesses.

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

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

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

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

It was suggested that Kentucky's Securities Act be amended to provide for LLCs. For example, LLCs should be provided for in the organizer's exemption from registration. Also, a broker/dealer exemption was suggested for people who sell LLC membership
interests. No amendment to the Kentucky Securities Act, however, should neglect the protection of the investors and the ability of small businesses to raise capital.

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

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

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

The November 14, 1995, meeting of the Subcommittee will be a discussion of draft legislation to assist small businesses.
REPORT OF THE 1994-95
INTERIM JOINT COMMITTEE ON
APPROPRIATIONS AND REVENUE

Senator Michael R. Moloney, Co-Chair
Representative Harry Moberly, Jr., Co-Chair

Rep. Royce Adams
Rep. Rocky Adkins
Rep. Ray Altman
Sen. Benny Ray Bailey
Sen. Walter Baker
Rep. Joe Barrows
Sen. Charles Berger
Sen. Walter Blevins
Sen. Charlie Borders
Rep. Mark Brown
Rep. Jim Callahan
Sen. Lindy Casebier
Rep. Larry Clark
Rep. Don Farley
Rep. Danny Ford
Rep. Richard Fox
Rep. Charles Geveden
Rep. Leonard Gray
Rep. Porter Hatcher
Rep. Bob Heleringer
Sen. Nick Kafoglis
Rep. Jimmie Lee
Rep. Marshall Long
Rep. Paul Mason
Rep. Lonnie Napier
Sen. Gerald Neal
Rep. Clarence Noland
Rep. Anne Northup
Rep. Ruth Ann Palumbo
Sen. Joey Pendleton
Sen. John David Preston
Rep. Kenny Rapier
Rep. Ernesto Scorsone
Rep. John Will Stacy
Rep. Tommy Todd
Rep. Mark Treesh
Rep. Richard Turner
Sen. Gex Williams
Rep. Pete Worthington

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

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1996 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY
The Interim Joint Committee on Appropriations and Revenue has been organized into six budget review subcommittees. Their purpose has been to review revisions to the enacted 1994-96 Budget, and monitor the budgetary operations and programs of state government, as well as analyze agency budget needs for the 1996-98 biennium.

The subcommittee members and primary staff assignments are as follows:

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<td>Natural Resources and</td>
<td>Rep. Rocky Adkins, Co-Chair</td>
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<td>Tourism</td>
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<td>Rep. Lonnie Napier</td>
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<td>Sen. Virgil Moore</td>
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<td>Rep. Kaye Bondurant</td>
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<td>Rep. J. R. Gray</td>
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<td>Sen. Joe Meyer</td>
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<td>Rep. Frank Rasche</td>
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<td>Sen. Albert Robinson</td>
<td>Sen. Tim Shaughnessy</td>
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<td>Rep. Jim Wayne</td>
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<td>Sen. Larry Saunders</td>
<td>Sen. James Crase</td>
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<td>Rep. Robert Damron</td>
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<td>Justice, Corrections and</td>
<td>Sen. Charlie Berger, Co-Chair</td>
<td>Rep. Ernesto Scorsone, Co-Chair</td>
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<td>Rep. Tommy Todd</td>
<td>Sen. Kelsey Friend</td>
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<td>Sen. Nick Kafoglis, Co-Chair</td>
<td>Steve Mason</td>
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<td>Rep. Pete Worthington, Co-Chair</td>
<td>Fonda Snyder,</td>
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<td>Rep. Danny Ford</td>
<td>Secretary</td>
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<td>Rep. Porter Hatcher</td>
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<td>Rep. Richard Fox</td>
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<td>Sen. Kim Nelson</td>
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<td>Sen. Barry Metcalf</td>
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<td>Rep. Ron Cyrus</td>
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<td>Rep. Fred Nesler</td>
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Ex-Officio Members:

- Sen. Michael Moloney
- Rep. Harry Moberly
INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

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

COMMITTEE ACTIVITY

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

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

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

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

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

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

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

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

The committee heard from the Executive Branch and its consultant regarding quarterly revenue receipts and projected revenue receipts for the next three quarters. General fund receipts for the third quarter of FY 1995 increased by 10.1 percent over FY 1994, due to strong performance by both the state and national economies. Projected revenue for FY 1995 may be $44.1 million more than the June 1994 consensus revision. The consultant noted that the interim revenue estimate includes adjustments for resolved and pending court cases, the refund carryforward from FY 1993 to FY 1994, the effects of
legislation enacted during the 1994 Regular Session, the June 1994 Special Session, and the January 1995 Special Session, as well as Revenue Cabinet initiatives in compliance and enforcement and accelerated withholding collections. Projected road fund revenues for FY 1995 are anticipated to be $46.8 million higher than FY 1994, due to higher growth in motor fuels and motor vehicle usage tax for the first three quarters.

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

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

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

At its fourth meeting, on June 22, 1995, the committee heard from the Chairman and Executive Director of the Health Purchasing Alliance on the progress of the Alliance. The Chairman of the Health Purchasing Alliance said that the Alliance was set to go into effect in mid-July and that approximately 200,000 Kentuckians will be covered. This includes citizens and businesses from the private sector, as well as all public employees who will join the Alliance in January 1996. The Executive Director of the Health
The Purchasing Alliance said that the formation of the health purchasing pool will create a new market and that health care costs will eventually stabilize. Reliable high quality health care plans, expansion of managed care, and competition among health care carriers for alliance members’ business should result in a successful health purchasing alliance.

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

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

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

At its sixth meeting, on September 28, 1995, the committee was introduced to the new commissioner for the Kentucky Department of Education.
The committee heard from an LRC staff economist on the current status of the federal budget and the likely fiscal implications for Kentucky. Preliminary estimates indicate that states can expect a 9 percent reduction in funding next year and a 30 percent reduction by 2002. Of particular concern to Kentucky is the Medicaid program, which accounts for nearly one-sixth of the state's total budget. Kentucky can expect to see a reduction of approximately 0.3 percent in major federal grant money for fiscal years 1995-96.

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

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

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

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

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

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

The committee heard from representatives from the Kentucky Education Association, state universities, and cities and counties regarding how joining the health purchasing alliance will affect them. All agreed the higher family rates were a concern. The
representatives from state universities said that the changes were basically a budget cut. Most of the universities have insurance committees in place which have aggressively negotiated for better rates. All of the university representatives testified that contribution rates will be higher and service will be less. City and county representatives expressed concern about higher rates and lower benefits.

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

**Subcommittee Activity**

**Justice, Corrections, and Judiciary**

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

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

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

<table>
<thead>
<tr>
<th>Appropriation Unit</th>
<th>FY 1994-95</th>
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<th>FY 1995-96</th>
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<tr>
<td></td>
<td>Restricted</td>
<td>Federal</td>
<td>Restricted</td>
<td>Federal</td>
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<tr>
<td>Adult Institutions (FY 1994-95 AIs = 6)</td>
<td>$1,219,500</td>
<td>$287,600</td>
<td>$3,700,000</td>
<td>$687,200</td>
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<tr>
<td>(FY 1995-96 AIs = 5)</td>
<td>12,700</td>
<td>121,700</td>
<td>109,300</td>
<td>85,000</td>
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<tr>
<td>Corrections Management (FY 1994-95 AIs = 3)</td>
<td>51,600</td>
<td>162,100</td>
<td>269,600</td>
<td>420,800</td>
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<td>(FY 1995-96 AIs = 3)</td>
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<td>Community Services and Local Facilities (FY 1994-95 AIs = 6)</td>
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<td>(FY 1995-96 AIs = 4)</td>
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<td><strong>TOTAL BY FUND SOURCE</strong> (FY 1994-95 Total AIs = 15)</td>
<td>$1,283,800</td>
<td>$571,400</td>
<td>$4,078,900</td>
<td>$1,193,000</td>
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<td>(FY 1995-96 Total AIs = 12)</td>
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<td>(9)</td>
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Justice Operations consists of the Justice Administration, the State Police, and the Criminal Justice Training appropriation units. In the current biennium, six appropriation increase requests were approved in FY 1994-95, and seven (to date) have been approved in FY 1995-96 by the Interim Joint Committee on Appropriations and Revenue. Those requests are summarized below by appropriation units:

### Justice Operations

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

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

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

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

The net effect on each department is as follows:

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

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

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

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

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

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

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

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<thead>
<tr>
<th>FY 1994-95</th>
<th>Total # Requests</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cabinet/Department</strong></td>
<td><strong>Restricted</strong></td>
</tr>
<tr>
<td>Education, Arts, &amp; Humanities</td>
<td>80,000</td>
</tr>
<tr>
<td>Department of Education</td>
<td>2,344,700</td>
</tr>
<tr>
<td>Workforce Development Cabinet</td>
<td>1,574,400</td>
</tr>
<tr>
<td>Higher Education</td>
<td>50,000</td>
</tr>
<tr>
<td><strong>Totals - FY 1994-95</strong></td>
<td>4,049,100</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FY 1995-96</th>
<th>Total # Requests</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education, Arts, &amp; Humanities</td>
<td>1,916,000</td>
</tr>
<tr>
<td>Department of Education</td>
<td>300,000</td>
</tr>
<tr>
<td>Workforce Development Cabinet</td>
<td>5,036,200</td>
</tr>
<tr>
<td>Higher Education</td>
<td>1,550,300</td>
</tr>
<tr>
<td><strong>Totals - FY 1995-96</strong></td>
<td>8,802,500</td>
</tr>
<tr>
<td><strong>Grand Totals - 1994-95 Interim</strong></td>
<td>12,851,600</td>
</tr>
</tbody>
</table>

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

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

The increases/decreases by Cabinet are as follows:

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

30
<table>
<thead>
<tr>
<th>Cabinet</th>
<th>FY 1995-96 General Fund</th>
<th>Restricted Funds</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Government</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office of Governor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Department of Law</td>
<td>1,505,600</td>
<td>75,000</td>
<td></td>
</tr>
<tr>
<td>UPS Commonwealth</td>
<td>82,200</td>
<td>360,000</td>
<td>11,700</td>
</tr>
<tr>
<td>UPS County</td>
<td>49,500</td>
<td>120,000</td>
<td></td>
</tr>
<tr>
<td>Agriculture</td>
<td>171,800</td>
<td>23,400</td>
<td></td>
</tr>
<tr>
<td>Military Affairs - Operations</td>
<td>680,500</td>
<td>4,715,700</td>
<td>(780,700)</td>
</tr>
<tr>
<td>Military Affairs - DES</td>
<td>2,871,000</td>
<td></td>
<td>13,825,000</td>
</tr>
<tr>
<td>Department of Treasury</td>
<td>176,600</td>
<td>135,000</td>
<td></td>
</tr>
<tr>
<td>Capital Plaza Authority</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Miscellaneous Appropriations</td>
<td>50,235,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Human Rights Commission</td>
<td></td>
<td></td>
<td>72,800</td>
</tr>
<tr>
<td>Personnel (General Operations)</td>
<td></td>
<td></td>
<td>156,000</td>
</tr>
<tr>
<td>Personnel (Deferred Compensation)</td>
<td></td>
<td></td>
<td>1,040,000</td>
</tr>
<tr>
<td>Boards and Commission</td>
<td></td>
<td></td>
<td>826,100</td>
</tr>
</tbody>
</table>

| Finance & Administration        |                         |                  |               |
| General Administration          | 57,500                  | 50,000           | 42,877,600    |
| Administration                  | 1,030,000               |                  |               |
| Geographic Information System   | 114,900                 |                  |               |
| County Costs                    | 1,200,000               | 377,000          |               |

| Public Protection & Regulation |                         |                  |               |
| Department of Public Advocacy  |                         |                  | 189,800       |
| Public Service Commission      |                         |                  | 73,200        |
| Alcoholic Beverage Control     |                         | 5,000            |               |
| KY Racing Commission           |                         | 3,308,000        |               |

| Labor                          |                         |                  |               |
| Workplace Standards            |                         | 60,000           |               |
| KY Occupational Safety & Health|                         | 70,000           |               |

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

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

The Budget Review Subcommittee on Economic Development, Natural Resources, and Tourism has held six meetings during the 1994-95 interim from October, 1994, through October, 1995.
The subcommittee reviewed and approved 25 requests for restricted funds appropriation increases totaling $22,014,100 and 15 requests for federal funds appropriation increases totaling $3,642,100. The increases by Cabinet and fiscal year are as follows:

**1994-95 Appropriation Increases**

<table>
<thead>
<tr>
<th>Cabinet</th>
<th>Number of Requests</th>
<th>Restricted Funds</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic Development</td>
<td>2</td>
<td>$70,000</td>
<td></td>
</tr>
<tr>
<td>Natural Resources*</td>
<td>6</td>
<td>2,529,700</td>
<td>164,300</td>
</tr>
<tr>
<td>Tourism</td>
<td>5</td>
<td>570,000</td>
<td>37,100</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>13</strong></td>
<td><strong>3,169,700</strong></td>
<td><strong>201,400</strong></td>
</tr>
</tbody>
</table>

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

**FY 1995-96 Appropriation Increases**

<table>
<thead>
<tr>
<th>Cabinet</th>
<th>Number of Requests</th>
<th>Restricted Funds</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic Development</td>
<td>4</td>
<td>$346,700</td>
<td>$400,000</td>
</tr>
<tr>
<td>Natural Resources*</td>
<td>18</td>
<td>17,468,200</td>
<td>2,933,600</td>
</tr>
<tr>
<td>Tourism</td>
<td>5</td>
<td>1,029,500</td>
<td>107,100</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>27</strong></td>
<td><strong>18,844,400</strong></td>
<td><strong>3,440,700</strong></td>
</tr>
</tbody>
</table>

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

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

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

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

The Tourism Cabinet made presentations on the Park Revitalization Bond projects, the Electronic Billboards, Kentucky Crafts within the Parks Gift Shops, miscellaneous personnel upgrades, the Advertising Campaign and potential issues to be addressed by the
1996 General Assembly. The subcommittee also received a presentation regarding the Eastern Highlands-North Tourism Commission.

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

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

Transportation

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

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

<table>
<thead>
<tr>
<th>Fiscal Year 1994-95</th>
<th>Enacted</th>
<th>Revision</th>
<th>Revised Appropriation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appropriation Unit</strong></td>
<td><strong>Vehicle Regulation</strong></td>
<td><strong>Highways</strong></td>
<td><strong>Public Transportation</strong></td>
</tr>
<tr>
<td>Federal</td>
<td>962,900</td>
<td>462,900</td>
<td>1,425,800</td>
</tr>
<tr>
<td>Restricted</td>
<td>1,714,800</td>
<td>65,000</td>
<td>1,779,800</td>
</tr>
<tr>
<td>Federal</td>
<td>312,712,000</td>
<td>2,695,100</td>
<td>315,407,100</td>
</tr>
<tr>
<td>Federal</td>
<td>3,829,500</td>
<td>1,690,000</td>
<td>5,519,500</td>
</tr>
<tr>
<td>Federal</td>
<td>17,000</td>
<td>23,500</td>
<td>40,500</td>
</tr>
<tr>
<td>Federal</td>
<td>175,000</td>
<td>200,000</td>
<td>375,000</td>
</tr>
</tbody>
</table>
## Fiscal Year 1995-96

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

In addition to the above, the subcommittee discussed and approved a Road Fund appropriation increase of $12.2 million to cover the costs of various actual/potential court judgments.
REPORT OF THE 1994-95
INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

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

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

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

LRC STAFF: Greg Freedman, Judy Fritz, Jamie Griffin

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1996 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY
INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

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

COMMITTEE ACTIVITY

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

Insurance

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

The Health Policy Board testified in November, 1994, that it had created a 27-member advisory committee to develop the standard benefit plans and the Board had sent out request for bids for services from consulting firms. Insurers and HMOs expressed concern about avoiding any drastic disruption to the market and the short period of time between final approval of plans and the selling of the plans. In June, 1995, the Board returned and testified that it had approved four standard plans on January 26, received
comments from the Department of Insurance on March 1, and given final approval to the plans on March 25, 1995. The Executive Director of the Alliance said the Alliance was on target to be up and running on July 17, had hired a core staff, and contracted with a third party administrator. Insurers and HMOs also returned in June and testified that there was concern about the need to approve forms and rates, that some insureds were unhappy not to have customized policies, that some groups questioned whether they would continue to benefit from discounts, and that they were conducting public forums and seminars to educate insureds and agents.

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

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

**Other Issues.** The *Insurance Fraud Unit* was created by legislation enacted in 1994. The Department of Insurance testified in May, 1995 that it had established the unit in January, 1995 and it had two investigators, an attorney, and two support staff. Since its creation, it had sent five cases to prosecutors and one indictment had been returned. The unit works closely with the FBI and State Police. Auto insurance and workers' compensation are the two segments of the industry where fraud is most prevalent. Testimony from *auto insurers* revealed that although premiums had increased from 1987-1992 by 36 percent in Kentucky and the average Kentucky premium was $583.30 in 1992, Kentucky was one of fourteen states in 1993 that showed an operating loss for private passenger liability coverages. The loss in Kentucky was minus 5.1 percent of earned premium. Physical damage coverage, however, showed a gain of 5.6 percent. Farm
Bureau testified that it had not shown a profit in automobile insurance in any of the last ten years. In the last three years the losses by Farm Bureau amounted to $18.5 million.

**Financial Institutions**

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

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

**Other Issues.** The Committee discussed with the Acting Commissioner of the Department of Financial Institutions legislation that may be proposed by the Department. The draft addresses the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, the transfer of trust accounts between affiliated banks, and between mobile banks, and other matters. At its October, 1995 meeting, the Committee heard testimony from a
small business owner and representatives of banks on the bank charge on merchants on purchases by debit cards. The merchants do not object to a charge by banks on credit card purchases since the merchants benefit by the extension of credit by the bank to the purchaser. However, debit cards do not involve an extension of credit, since the purchase price is debited from the purchaser's checking account.
REPORT OF THE 1994-95
INTERIM JOINT COMMITTEE ON
ECONOMIC DEVELOPMENT AND TOURISM

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

Sen. Mike Moloney Sen. Virgil Moore
Sen. Julia Rose Sen. Dan Seum
Sen. Tim Shaughnessy Sen. David Williams
Rep. James Zimmerman

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

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1996 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY
INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

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

COMMITTEE ACTIVITY

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

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

The fourth meeting of the Interim Joint Committee on Economic Development and Tourism included a presentation on the quarterly progress report on the state's economic development strategic planning process by the Secretary of the Cabinet for Economic Development and his staff, and a presentation by the Secretary of the Education, Arts and Humanities Cabinet and representatives of the Tourism Cabinet regarding a proposed cultural economic initiative by which the state would provide small planning grants to
selected communities to help those communities identify cultural assets and resources and to development strategic plans to implement activities and proposals to increase cultural tourism throughout the Commonwealth. In addition to the cultural economic development initiative, the committee also heard testimony from officials of the Tourism Cabinet regarding the strategic planning efforts of the cabinet. It was reported that the cabinet had requested funding from the U.S. Economic Development Administration for the purpose of crafting a Tourism Master Plan for Kentucky. The Cabinet spokesperson, who is assisted by the University of Kentucky Center for Business and Economic Research, stated that he was hopeful that a final draft of the plan would be completed by September, 1995.

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

The sixth meeting of the committee was held on August 17, 1995, at which time the committee reviewed two administrative regulations submitted by the Cabinet for Economic Development: 307 KAR 4:010, an administrative regulation respecting the Kentucky Industrial Development Tax Credit Program, as set forth in KRS 154.29-010 through 154.28-090; and 207 KAR 1:030, an administrative regulation respecting the Kentucky Rural Economic Development Tax Credit Program, as set forth in KRS 154.22-010 through 154.22-070. After considerable discussion, the committee amended 307 KAR 4:010 (5)(1)(c), without objection of the cabinet, to state that "full-time" shall mean a work week of not less than thirty-five hours, and amended 307 KAR 1:030 (5) and 307
KAR 4:010 (5) to provide that "skilled jobs" shall have the same meaning as that term has when used by the federal Division of Labor and Workforce Training and as set forth in the staff report. Pursuant to a recommendation of the Administrative Regulations Subcommittee, the committee also directed that legislation be drafted to amend KRS 154.22-010(9) to include "limited liability companies" and "limited liability partnerships" in the definition of "eligible company." After further discussion, 307 KAR 1:030 and 307 KAR 4:010 were approved as amended.

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

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

The seventh meeting was held September 19 and 20, 1995, at the Kentucky Dam State Resort State Park and the Paducah Information Age Park. This two-day meeting included discussion of the workforce training report, prepared by staff in response to the directives of Senate Concurrent Resolution 86 (1994), directing the Interim Joint Committee on Economic Development and Tourism to study workforce training programs in Kentucky including all post secondary programs not requiring a baccalaureate degree, i.e., vocational-technical programs operated by the Kentucky Tech System and associate degree programs offered by the University of Kentucky Community College System and other public state colleges and universities. Excluded from the study are private colleges and universities and proprietary schools. All fifteen community colleges (including the twin campuses of the Jefferson Community College), seventy-seven Kentucky Tech schools (including the fifty-four Area Vocational Education Centers), and the seven universities (excluding the University of Kentucky, which does not offer associate degree programs) were included in the study. The findings of the report are that there are 2,529 program offerings under 292 separate names; of those, 1,811 are certificate programs, 515
are diploma programs (offered only at Kentucky Tech) and 199 are associate degree programs (offered only at community colleges, state colleges and universities).

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

1. Most of the duplication by "job title" occurs within the certificate programs offered by Kentucky Tech. While these consist of short courses rather than the more complete diploma and associate degree programs, there remains a question as to whether there are sufficient jobs to support this number and concentration of certificate programs and whether this is an effective use of scarce resources.

2. The CIPs show that in the vocational and technical areas all the post-secondary systems, Kentucky Tech, the UK Community College System, and the universities, provide programs for the student customer.

3. Kentucky Tech and the universities share more programs in common (CIPs) than do the Kentucky Tech and the UK Community Colleges.

4. The areas primarily reserved for Kentucky Tech seem to be more traditional vocational areas, such as automotive, transportation, carpentry, and cosmetology.

5. The KOICC information indicates that in twenty-three occupational areas students who receive either an associate degree or a diploma become marketable for similar, if not always identical, jobs.

6. The degree to which a student increases his or her chances of obtaining employment based on his or her choice of occupational program, school, or credential awarded is unknown.

7. Currently, there is no formal or mandated entity coordinating post-secondary educational programming across all post-secondary associate degree, diploma, and certificate programs. The Council on Higher Education and universities' boards make decisions about college and university programs. The Workforce Development Cabinet and the State Board for Adult and Technical Education make decisions about Kentucky Tech programming.

8. Progress among colleges and universities has been slow in formalizing transfer of credit and articulation agreements. However, the need for better transfer methods has been widely discussed and advancement has begun.
9. Kentucky post-secondary and secondary schools have a patchwork of inconsistent articulation agreements that become obsolete with curriculum changes, requiring a great deal of staff time to negotiate.

10. Because of the prevalence of Tech-Prep, apprenticeships, work-based learning, School-to-Work transition programs, older experienced students, and the desire for applied understanding, articulation agreements and transfer-of-credit agreements should move away from a narrow collegiate model.

11. Low student enrollment and graduation rates should only be a part of decision-making when determining which post-secondary programs to offer. The need for accurate job placement data is important in deciding which occupations and educational programs are in demand, and which are not.

12. School heads are more likely to see a need to add programs based on a community and industry need, than they are to eliminate programs because of lack of demand. Community and institutional pressures add to the difficulty.

13. Post-secondary students often need improvement in acquiring skills and attributes that businesses want in employees.

The recommendations drawn from the conclusions of the study are:

- Recommendation #1: The General Assembly should enact legislation that creates an oversight function to assess, plan, and recommend to the governor occupational and technical programming that provides quality education in high demand occupations and eliminates unnecessary duplication among public programs and institutions.

- Recommendation #2: As jobs are located in specific communities, determination of needed post-secondary education and training programs should be based on regional labor supply and job demand. The General Assembly should enact legislation that requires occupational and technical educational program planning by broad-based regional entities, such as The School-To-Work Local Partnership Councils, whose members represent at least 51% private businesses.

- Recommendation #3: The General Assembly should enact legislation requiring planning for occupational and technical programs to be based on objectively determined needs' assessments, including: 1) labor market analysis within a region; 2) placement rates of student graduates in directly related occupations; 3) number of programs already serving the region; and 4) enrollment and graduation rates in the current programs.

- Recommendation #4: The General Assembly should enact legislation that mandates the technical studies "1+1" type program and block transfer concept statewide as a means for all students with appropriate diploma programs to earn associate degrees.
• Recommendation #5: The General Assembly should encourage the entire post-secondary system to continue to implement a "Seamless System," including flexible access to programs by: competency-based admissions policies, performance-based testing, course-by-course transfers, and credit for life experiences and knowledge, with less emphasis on identical curricula.

• Recommendation #6: The General Assembly should enact legislation that requires each public post-secondary institution to include in its catalog a statement concerning its transfer of credit and articulation policies and a contact person at the institution who will communicate to students details concerning these policies.

• Recommendation #7: The General Assembly should provide budgetary incentives for cooperation between those institutions awarding diplomas and those awarding associate degrees by allocating funds based on both: (a) joint planning to eliminate unnecessary duplication and waste, and (b) joint programming, including successful articulation agreements and transfer of credits.

• Recommendation #8: In order for the post-secondary programs to become effective and efficient, they must offer programs based on supply-and-demand principles. The General Assembly should require program planning based on objective information as set forth in Recommendation #3.

• Recommendation #9: The General Assembly should enact legislation requiring the collection and analysis of accurate and reliable job placement information by a neutral, objective entity, such as KOICC, employment services or one-stop career centers. Incentives for high student response rates should be incorporated into the survey methodology.

• Recommendation #10: Because of limited funding, and the need to improve efficiency and effectiveness, the General Assembly should encourage post-secondary policy makers to implement innovative practices, such as: mobile training sites, instructor rotation to various campuses, tele-courses, and transporting students to regional centers.

• Recommendation #11: The General Assembly should encourage the development of courses and instruction designed to instill the sixteen desired employee skills and attributes discussed in the full report at all secondary and post-secondary schools.

• Recommendation #12: Secondary educational schools should be held accountable for graduates (within 2 years of graduating) who enter post-secondary schools without achieving a standard of basic reading and math. The local school systems from which the student graduated should provide a "guarantee program," similar to Kentucky Tech's, in these two basic skill areas.
• Recommendation #13: Any region that implements efficiency and effectiveness measures, should be permitted to use the funds saved to implement needed programs or to purchase necessary equipment.

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

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

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

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

The representative of the Governor of the Conference of University Presidents Council stated that the Council has no opposition to the report, saying that there is a need for agreements to be in place prior to students actually starting programs. He stated that Recommendation #1 was of greatest concern to the Presidents Council; the Council believes there is greater need for discussion among the universities and colleges, Kentucky Tech, and all groups involved in developing courses of study at the freshman and sophomore levels. The Council noted that these institutions must be concerned with accreditation.
The discussion continued, as the committee continued to meet on September 20 at the Paducah Information Age Park. Further discussion of articulation agreements occurred with testimony taken from representatives of Murray State University, Paducah Community College, West Kentucky Tech, Paducah, and representatives of Shawnee Community College in Illinois and Southern Illinois University at Carbondale, Illinois.

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

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

- Recommendation #1 is amended to read: "The General Assembly should enact legislation that requires the Council on Higher Education and the State Board for Adult and Technical Education to develop a joint review and approval process for new and continuing technical programs at the associate degree, certificate, and diploma levels and eliminating unnecessary duplication among public programs and institutions."

- Recommendation #8 is amended to read: "In order for the post-secondary occupational and technical programs to become effective and efficient, they must offer programs based on supply and demand principles. The General Assembly should require program planning based on objective information, as set forth in Recommendation #3."

- Recommendation 12 is deleted in its entirety.

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

1. Place the Secretary of the Tourism Cabinet on the board of the Kentucky Economic Development Partnership;
2. Request economic development bonds for tourism projects in the 1997-98 state biennal budget;

3. Amend the statutes regarding the Local Government Economic Development Assistance funds to permit such funds to be used by local officials for tourism projects;

4. Develop a tax credit program for existing and new tourism businesses and attractions;

5. Propose legislation to eliminate liability insurance regulations, taxes and other legal provisions that may inhibit tourism;

6. Repeal the motor coach fuel tax;

7. Increase funding for the state Tourism Matching Funds Program for regional marketing;

8. Provide a broader range of local options on limited alcohol sales at Kentucky tourism businesses;

9. Provide financial incentives for preserving and developing historic structures and sites as tourist attractions, and establish programs for converting historic properties into bed and breakfasts or other tourist attractions;

10. Continue support for the Cultural Economic Initiative of the Education, Arts and Humanities Cabinet; and

11. Provide teachers professional training on Kentucky history and culture.

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

**Prefiled Bills**

No bills were prefiled by the committee during the 1995-96 Interim.
REPORT OF THE 1994-95
INTERIM JOINT COMMITTEE ON EDUCATION

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


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

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1996 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY
SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON GOVERNANCE AND FINANCE

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Rep. Joe Barrows, Co-Chair

Sen. Walter Baker
Rep. Joe Clarke
Rep. Barbara Colter

Rep. H. "Gippy" Graham
Rep. Richard Murgatroyd
Senator Gex Williams

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

SUBCOMMITTEE ON POSTSECONDARY EDUCATION AND THE TEACHING PROFESSION

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Rep. Ernesto Scorsone, Co-Chair

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Rep. Kenny Rapier
Rep. Tom Riner
Sen. Julie Rose

Rep. Charles Siler
Rep. Mark Treesh
Rep. Charles Walton

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Representative Freed Curd, Ex-Officio

SUBCOMMITTEE ON STUDENTS AND CURRICULUM

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Rep. Frank Rasche, Co-Chair

Sen. Lindy Casebier
Sen. Nick Kafoglis
Rep. Tom Kerr
Rep. Bill Lile

Rep. Harry Moberly
Rep. Anne Northup
Sen. David Williams

Senator Joe Meyer, Ex-Officio
Representative Freed Curd, Ex Officio
INTERIM JOINT COMMITTEE ON EDUCATION

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

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

COMMITTEE ACTIVITY

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

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

Major topics before the Interim Joint Committee on Education were the Kentucky Instructional Results Information System (KIRIS), including a report on the 1993-94 preliminary results, discussions relating to the current testing contract and the request for proposals for the next contract, and the evaluations of KIRIS by the Kentucky Institute for Education Research and the Office of Education Accountability; professional development for Kentucky teachers; the Elementary Schools Assistance Plan required by HJR 62; the independent evaluation of the Family Resource and Youth Services Center Program; the implementation of 1994 House Bill 490, relating to girls' fast-pitch softball; higher education funding and tuition policy; various initiatives of the Workforce Development Cabinet, including the School-to-Work program, Vision 21, customized industry training, the creation of the Department for Adult Education and Literacy, their personnel pilot project, the Kentucky Industries for the Blind Charles McDowell Center, and the Office of Training and Re-employment; the community college system; the primary program; the
Calloway County Alternative Program; parental and community involvement; and a report by the Subcommittee on Governance and Finance on 1994 SCR 84.

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

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

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

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

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

Professional Compensation Plan

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

Support Education Excellence in Kentucky (SEEK)

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

Other increases in available revenue during the 1989-94 period include a 20% increase in teachers' salaries and a 23% increase in property tax assessments. When comparing statewide expenditures by category for the same period, it is apparent that money is not being spent much differently now than it was in 1989. Expenditures for instruction, transportation, facilities, operation and administration are within one percent of what they were five years ago, with the exception of the health and attendance category, where increases can be attributed to the family resource centers. Other topics of discussion included 1994 HB 810, providing for tax assessments in growth districts; qualifications for Tier I, Tier II, and the hold harmless provision of SEEK; and the schedule for developing and approving local school districts' budgets.
Figures for average daily attendance have grown by 1.4% over the same four-year period. Department of Education officials reported that for the first time since the implementation of the SEEK funding formula, all components of SEEK are fully funded for the 1994-95 fiscal year and appear to be fully funded for the 1995-96 fiscal year. With the additional $13 million from surplus added during the 1994 Special Session, the guaranteed base increased to $2,517 from $2,495.

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

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

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

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

1. Reconsider the use of the federal free lunch count as the method of generating the at-risk children funds in view of the expected changes in the federal program;

2. Use prior year property assessments to provide a firm figure for the SEEK calculation rather than a projected calculation of the certified property assessment;

3. Use enrollment statistics instead of average daily attendance as a basis for the SEEK calculation;

4. Continue the evaluation of the special education weights, although no change in the weights is recommended; and
5. Evaluate the propriety of establishing weights for categorical programs currently funded outside of the SEEK formula.

School Facilities Construction Commission (SFCC)

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

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

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

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

Kentucky Education Technology System (KETS)

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

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

The new accounting system adds more specificity and significant information to the accounting process, and new forms and charts generated by the DAS provide more
meaningful school budgets. The system is efficient and reduces time consuming and repetitive tasks in the budget process.

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

Rewards and Sanctions

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

Year-Round Schools

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

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

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

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

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

School-Based Decision Making Councils

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

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

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

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

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

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

The Local Superintendents Advisory Council submitted recommendations and summarized seven key points as the basis for their recommendations. These points
concern: the propriety and necessity of certain regulations; a two-year accountability cycle for local school districts; a process for a waiver or approval to use an alternative approach; the necessity of submitting documents, as opposed to having documents available for inspection upon request; certification by school officials that certain statutes are being followed; the expense of publishing information; and the local facilities planning process.

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

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

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

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

**School-to-Work**

The Subcommittee heard about Kentucky's involvement in the federal program established by the School-To-Work Opportunities Act of 1994, as well as the implementation of SB 195 (1994), the Workplace Essential Skills Program. The School-To-Work Opportunities Act of 1994 gives Kentucky the opportunity to create a coherent system of education and training to help students make a successful transition from school to the workforce. The new system will prepare the students for a more skilled, high wage career; increase future opportunities for students as they come through the educational system; create partnerships with business and industry in providing high quality work-based learning experiences for students; motivate students to stay in or return to school; and build on and advance such programs as Tech Prep, cooperative education, pre-apprenticeship, youth apprenticeship and career academies.
The Workplace Essential Skills Program
The 1994 General Assembly appropriated $1.6 million for Fiscal Year 1996 to create the Workplace Essential Skills initiative, in order to move adult basic education into the workplace. The program differs from traditional adult education programs in that it will provide customized training in the business or industry setting, targeting basic skills that are utilized in a particular workplace. The Department of Adult Education and Literacy will place eight Workplace Essential Skills coordinators in strategic locations across the state to be responsible for the development and coordination of the programs. The Department will also provide four mobile classrooms to help companies that do not have classroom space for their employees.

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

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

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

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

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

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

**Alternative Certification**

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

**Professional Development**

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

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

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

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

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

Committee on Equal Opportunities in Higher Education

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

Speech and Language Pathology

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

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

Medical Education

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

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

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

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

The Executive Director of the Council on Higher Education described several proposals related to the delivery of physician assistant and nurse practitioner programs in western Kentucky, from both the University of Kentucky and the University of Louisville, to be delivered in conjunction with other institutions in that part of the state. At the current time there are no programs in western Kentucky, but there will be in the future.
He said the recruitment and retention of minorities in the health professions has not been addressed, since scholarships and other financial incentives have not been available, but the institutions are working to recruit and retain minority students and faculty. He said they are working to determine the degree to which health professions education courses are uniform and transferable among institutions.

Subcommittee on Students and Curriculum

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

Family Resource and Youth Service Centers

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

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

High School Restructuring Pilot Program

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

Kentucky Education Collaborative for State Agency Children

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

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

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

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

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

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

**Primary Program**

The primary program is that part of school from entry until the student meets the requirements for the fourth grade. The critical attributes are developmentally appropriate educational practices, multiage and multiability classrooms, continuous progress, authentic assessment, qualitative reporting methods, professional teamwork, and positive parental involvement.
A representative from the Department of Education reported on the implementation of the Elementary Assistance Plan adopted by the Kentucky Board of Education pursuant to HJR 62. The resolution calls for the department to find ways to share successful strategies among teachers and to ease the workload for elementary school teachers. As part of the department's response, the math portfolio has been moved to the fifth grade and training continues for all teachers involved in writing and math portfolio development and scoring. In addition, the department has developed eight discipline-based learning descriptions and elementary course outlines. Staff is continuing to work with the professionals in the field to help define professional development and determine how schools can best use their own resources and teacher-to-teacher training to continue to implement reform. The department is also coordinating activities with several professional organizations.

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

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

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

School-Based Decision Making

School-based decision making (SBDM) allows school councils, made up of teachers, parents, and the principal, to make many decisions about curriculum, instructional practices, and how the school operates. The law calls for each school to adopt school-based decision making by July, 1996, unless it is the only school in the district or the school exceeds its goal for improving student achievement set by the state and requests a waiver.
The Department of Education reported on the implementation of Senate Bill 51, which requires minority representation on councils for schools that serve more than 8% minority students. All schools have been notified of the requirements of the bill, and a program review outlining SBDM legislation has been distributed to school superintendents and principals. In June, 1994, the department revised the SBDM training to ensure a stronger component related to minority recruitment and retention. The department is providing technical assistance for schools implementing SB 51, but there have been few requests.

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

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

School Assessment and Accountability

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

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

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

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

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

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

The reward schools were to notify the Department of Education by May, 1995, of the voting procedures and how they voted to use their rewards. A representative from the
Department of Education reported on how reward schools chose to use their money and some of the problems that have been identified. Ninety six percent of the reward money was used for staff bonuses, a little over 1% for other purposes, and 2% was set aside for appeals. The form does not clearly differentiate between certified and classified staff bonuses.

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

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

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

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

**Legislative Recommendations**

The Subcommittee recommended that the full Committee approve as prefiled 96 BR 83, AN ACT relating to elementary and secondary education. The Subcommittee also recommended that the full Committee approve as amended 96 BR 214 - AN ACT relating to school-based decision making.
REPORT OF THE 1994-95
SPECIAL SUBCOMMITTEE ON ENERGY

Representative Charles "Preacher" Nelson, Chair


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

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1996 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY
SPECIAL SUBCOMMITTEE ON ENERGY

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

SUBCOMMITTEE ACTIVITY

The jurisdiction of the Special Subcommittee on Energy is drawn from the Senate Agriculture and Natural Resources Committee and the House Tourism and Energy Committee. The Subcommittee met eleven times through October 1995 and plans one additional meeting during the interim.

Low-Income Home Energy Assistance Program

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

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

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

Telecommunications

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

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

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

Coal

Officials from the Tennessee Valley Authority (TVA) briefed the Subcommittee in August, 1994, on the agency's strategy for complying with the Clean Air Act Amendments of 1990. That strategy includes purchasing Colorado and Utah coal for some of its plants. However, TVA assured the Subcommittee that its usage of Illinois Basin coal, which includes the Western Kentucky coal fields, will continue at near current levels and could increase as much as 10% by 1999.
The Subcommittee held its April, 1995 meeting at the Center for Applied Energy Research in Lexington, and toured their laboratory facilities. The Subcommittee was briefed on the status of various research projects and overall research priorities at the Center, and on the outlook for coal exports. Kentucky currently exports about 10% of its coal production. A federal program to assist in export marketing is threatened with cuts. The Subcommittee was told that the future of the federal Clean Coal Technology Program is in doubt, although the 45 projects already authorized probably will be completed. The Subcommittee also considered coal waste products at this meeting. The Department for Surface Mining Reclamation and Enforcement gave the group an overview of action to implement 1994 SB 266, which allows disposal of coal combustion byproducts at surface mining operations. A representative of the Center for Applied Energy Research described ongoing research on coal waste.

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

**Tire-Derived Fuel**

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

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

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

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

Energy Efficiency in State Facilities

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

Prefiled Bills and Administrative Regulations

The Subcommittee reviewed only one prefiled bill during the interim, BR 416, relating to small telephone utilities. The bill would reduce Public Service Commission regulation of companies which serve fewer than 50,000 subscribers, and deregulate all but the basic rates. Further discussion of this bill is planned for the November 1995 meeting, when the committee may take action.
As part of its statutory responsibilities, the Subcommittee considered and approved three administrative regulations. Two of the regulations, 807 KAR 5:058 and 807 KAR 5:013, were promulgated by the Public Service Commission and relate to utility audits and to integrated resource plans that electric utilities are required to submit. The third regulation, 904 KAR 2:116, promulgated by the Department for Social Insurance, relates to the Low-Income Home Energy Assistance Program (LIHEAP), a federal block grant.
REPORT OF THE 1994-95
INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

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Representative Tom Burch, Co-Chair

Sen. Tom Buford
Sen. Paul Herron
Sen. Denny Nunnelley
Sen. Tim Philpot
Sen. Julie Rose
Rep. Jesse Crenshaw
Rep. Bob DeWeese
Rep. James Gooch
Rep. Mary Lou Marzian
Rep. Ramsey Morris
Rep. Stephen Nunn
Rep. Ernesto Scorsone
Rep. Tommy Todd

Sen. James Crase
Sen. Joe Meyer
Sen. Joseph Pendleton
Sen. Richard Roeding
Sen. Larry Saunders
Rep. Perry Clark
Rep. Robert Damron
Rep. Ernest Fletcher
Rep. Bob Heleringer
Rep. Paul Mason
Rep. Donnie Newsome
Rep. Ruth Ann Palumbo
Rep. Katie Stine

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

PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1996 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY
SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON CHILDREN'S HEALTH NEEDS

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Representative Ramsey Morris, Vice Chair

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

Rep. Ernest Fletcher
Rep. Bob Heleringer

Senator Benny Ray Bailey, Ex-Officio
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SUBCOMMITTEE ON FAMILIES AND CHILDREN

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Rep. Mary Lou Marzian
Rep. Stephen Nunn
Rep. Katie Stine

Senator Benny Ray Bailey, Ex-Officio

SUBCOMMITTEE ON MONITORING THE IMPLEMENTATION OF 94 HOUSE BILL 250

Senator Benny Ray Bailey, Chair
Senator Joe Meyer, Vice-Chair

Sen. Tom Buford
Rep. Stephen Nunn

Rep. Paul Mason
Rep. Ernesto Scorsone

Representative Tom Burch, Ex-Officio

85
SUBCOMMITTEE ON LEAD HAZARD REDUCTION

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

Sen. Paul Herron                    Sen. Julie Rose
Sen. Larry Sanders                 Rep. Perry Clark

Senator Benny Ray Bailey, Ex-Officio
Representative Tom Burch, Ex-Officio
INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

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

COMMITTEE ACTIVITY

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

- Children's Health Needs;
- Families and Children;
- Lead Hazard Reduction; and

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

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

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

- Executive Order 94-443, creating within the Cabinet for Human Resources an Office of Personnel and Budget, and abolishing the Office of Policy and Budget and the Office of Personnel Management;

- Executive Order 94-1016, changing the name of the Cabinet for Human Resources, Division of Children's Residential Services, to the Division of Youth Services; and
- Executive Order 94-1017, creating the Division of Staff Training in the Department for Social Services and removing the training function from the Divisions of Family Services and Children's Residential Services.

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

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

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

The Committee received:

1. An annual report on the funding from the Substance Abuse and Pregnancy Work Group, which estimated between 3,700 and 5,400 babies per year are harmfully exposed to drugs in utero, and made recommendations for comprehensive statewide prevention services for chemically dependent pregnant women and their children;

2. An update on the implementation of 90 House Bill 425, An Act relating to Acquired Immunodeficiency Syndrome (AIDS), which identified a problem of access to appropriate health care, including placement in an appropriate nursing home bed, and the recommendation that hospital discharge planners receive more education on HIV/AIDS;

3. An implementation report by the Cabinet for Human Resources HB 207, providing for transporting of an alleged mentally ill person to a hospital or psychiatric facility, in lieu of the jailing of the person, prior to an evaluation by a qualified mental health professional;

4. Briefings on the proposed transfer of administration of Central State Hospital and Eastern State Hospital (inpatient psychiatric hospitals) from the Cabinet for Human Resources to the Regional Mental Health/Mental Retardation Boards based in Louisville and Lexington, for the purpose of further building an integrated system of mental health care;

5. An annual report on findings of the Kentucky Cancer Registry, including interventions occurring in earlier stage state diagnosis of breast cancer;
6. A briefing on public assistance programs administered by the Cabinet for Human Resources, including statutory requirements for program beneficiaries, the 1988 Ratable Reduction law, and work training programs and opportunities;

7. A progress report on the implementation of Supported Living and Supported Employment Programs for disabled persons, as viewed by employers, friends, and family members;

8. Recommendation from the Child Care Policy Council that Kentucky should integrate all state and federal funding sources for child care and provide a single point of entry into a subsidized child care system for low-income working families;

9. Comments from parents and family members of residents in the Central State Hospital ICF/MR facility concerning the need to protect the mentally retarded and expressing reservations about placing mentally retarded persons in community based group homes;

10. Testimony from a hospital based social worker, local school employees, and the state social service agency officials on the Commonwealth's child protective services system, which responded in 1993 to reports of suspected abuse or neglect of 55,706 children;

11. A report from the Secretary for Human Resources on behalf of the Cabinet for Human Resources appointed Child and Adult Protective Services Work Group;

12. Presentation of the Kentucky Home Place Project (Family Health Care Advisors) Evaluation Data;

13. A briefing on Homeless and Housing Issues, including local providers' concerns about pending Congressional policies governing block grants; and


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

Subcommittee on Children's Health Needs

The Subcommittee on Children's Health Needs of the Interim Joint Committee on Health and Welfare was approved by the Legislative Research Commission in July of 1994
and has held nine regular meetings through October 1995. Issues considered by the Subcommittee include:

1. An overview of the status of child health in Kentucky presented by the Acting Director of the Division of Maternal and Child Health in the Department for Health Services, and the Commissioner of the Department of Mental Health/Mental Retardation Services;

2. A review of the Kentucky Commission for Children with Special Health Care Needs (formerly the Commission for Handicapped Children);

3. Testimony on the needs of parents of children with special health needs, presented by Parents and Partners for Children's Health Care;

4. A review of 94 House Bill 408, which created the Kentucky Early Intervention System, for the purpose of providing services to infants and toddlers with a disability. The system consists of a network of councils which involves parents of children with disabilities and seeks to help families to meet the needs of their children with disabilities, and to reduce the need for future services by intervening early with appropriate services;

5. A progress report on the Kentucky Birth Defects Registry, created by the legislature in 1992 for the purpose of providing information on the incidence, prevalence, trends, and possible causes of birth defects, stillbirths, and high risk conditions among infants;

6. Early and Periodic Screening, Diagnosis and Treatment program (EPSDT). This program is administered through Medicaid and provides screening and treatment services for children under 21 years of age who meet state poverty eligibility standards. EPSDT provides four types of screening: medical, dental, vision and hearing. Federal law imposes a number of requirements on states with respect to offering EPSDT services, including goals on the percent of children eligible for Medicaid that must be screened. Last year, approximately 224,000 children were eligible for Medicaid in Kentucky. According to the annual Medicaid 264 report, about 4,300 received services through EPSDT last year;

7. A discussion of phenylketonuria (PKU), a metabolic disorder that can cause serious problems for newborns if untreated;

8. An implementation update on 94 HB 643, relating to medical child support. This legislation (1) requires the non-custodial parent's employers to permit the parent to enroll the child under any family coverage available to the parent; (2) permits the custodial parent to submit claims for services covered under the policy without the non-custodial parent's consent; and (3) requires the Cabinet for Human Resources to withhold wages from a person who has been ordered to provide health insurance coverage to a child who is eligible for medical assistance; and
9. A report from the state coordinator of the National Safe Kids Campaign, who spoke to the subcommittee about efforts to reduce preventable injuries to children.

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

Subcommittee on Families and Children

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

1. Concerns about personnel and organizational changes within the Family Resource and Youth Services Centers program;

2. Implementation of 1994 legislation relating to child sexual abuse;

3. Timelines for planning and implementation of the federal Family Preservation and Support Services Program Act;

4. Overview of the statewide system of child fatality review implemented in Missouri and the proposal to implement a similar process of review in Kentucky;

5. Update on efforts to locate missing children through administrative actions of the state Vital Statistics Bureau and the local school system;

6. Review of a report from the Department of Education concerning access to school breakfast programs;

7. Progress report on the Kentucky IMPACT Program for families of and children with severe emotional disabilities;

8. Review of the availability of Psychiatric Residential Treatment Facilities (PRTFs) and the creation of a mechanism of periodic reimbursement adjustment for providers;

9. Discussion of the work of the Kentucky Commission on Families and Children;

10. Examination of the concerns of private child care providers with the CHR Office of Inspector General Division of Licensing and Regulation;

11. Review of the implications when children are abused or neglected in psychiatric hospitals, juvenile residential treatment centers, and foster care; report by the agencies responsible for investigating and responding to these incidents; and consideration of alternatives to improve oversight, including creation of an external review entity; and
12. Briefing on child support recommendations from the Office of the Attorney General and the Cabinet for Human Resources.

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

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

The Subcommittee accomplished the following:

1. Welcomed and were briefed by the five appointed members of the newly created Kentucky Health Policy Board regarding plans and expected timetables for implementing the various health care reform provisions contained in HB 250. Thereafter the Chairman of the Board provided monthly updates to the members of activities of the Board during the preceding month;

2. Welcomed and were briefed by the five appointed members of the Board of Directors of the newly created Kentucky Health Purchasing Alliance regarding plans and expected timetables for implementing the health insurance reform provisions contained in HB 250. Thereafter, the Chairman of the Board and the Executive Director of the Alliance provided monthly updates on the activities of the Alliance during the preceding month;

3. Received periodic updates from Department of Personnel staff on the implementation of the new group health insurance program for low and high risk and uninsurable persons, termed the State Employee Health Care Plan Buy In or "CommonHealth of Kentucky";

4. Received an overview from the Commissioner and staff of the Department of Insurance on the implementation of health insurance reforms contained in HB 250;

5. Received an update from the Secretary for Human Resources on the plans for implementation of the Medicaid Discount Option Program, which was created by HB 250, and periodic updates on the Cabinet's implementation of its responsibilities under Part 11 of HB 250;
6. Received an update from the Secretary for Human Resources on the plans to cut reimbursement rates to physicians pursuant to the recommendation of a consultant;

7. Received testimony from representatives of the insurance industry and health maintenance organizations about the effect of HB 250 and compliance issues;

8. Received an update on the status of lawsuits challenging HB 250 from counsel for the Department of Insurance;

9. Received testimony from the Health Policy Board as to the implementation of the health care cost and quality data collection requirements and as to the data actually collected;

10. Received testimony that the fee disclosure lists have been prepared for all health care providers in Kentucky and should now be posted in a conspicuous place in each provider's office;

11. Received testimony as to the approval of the initial set of practice parameters on acute low back pain and asthma, and the state's development of twenty-two sets of parameters in total;

12. Received testimony that the twenty-four hour health coverage program had been established and that several insurance companies had submitted forms and rates for review;

13. Received testimony about the progress of the development of the 1996-1998 State Health Plan, and the plans for statewide hearings;

14. Received testimony that the 1996-1998 State Health Plan had been adopted;

15. Received testimony that the certificate of need functions had been assumed by the Health Policy Board, and that hearings on pending applications were taking place;

16. Received testimony that the accountable health plans for the Health Purchasing Alliance had been certified, and that premiums for the standard health benefit plans were available;

17. Received testimony that the health insurance reforms were in effect;

18. Received testimony that the medical education reforms were being considered by the Kentucky Council on Higher Education and state medical schools; and

19. Received testimony from individuals and small employers who have obtained health insurance through the Kentucky Health Purchasing Alliance.
Action taken by the Subcommittee included:

1. Recommending, by motion and adoption by voice vote, that the Health Policy Board include consumer members on its standard benefit plan advisory committee;

2. Recommending that the Health Purchasing Alliance renegotiate contracts with accountable health plans to obtain less expensive premiums;

3. Recommending, by motion and adoption by voice vote, that correspondence be forwarded to health insurers in Kentucky inquiring as to whether notices of health care reform measures had been mailed to their insureds, as required by the Department of Insurance; and

4. Recommending that the Department of Insurance actively review the reasonableness of rates and disapprove excessive rates.

The Subcommittee did not recommend specific legislation.

**Studies Directed**

**Subcommittee on Lead Hazard Reduction**

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

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

1. General discussion of the health implications of lead hazards and lead poisoning;

2. Proposed federal regulations governing the certification of lead hazard abatement professionals, presented by a representative of the U.S. Environmental Protection Agency;

3. Responsibilities of the Cabinet for Human Resources and the Natural Resources and Environmental Protection Cabinet for the implementation of the federal requirements;

4. Considerations in determining which Cabinet will have primary responsibility for the certification and accreditation program development;
5. Analysis from the National Conference of State Legislatures regarding federal lead legislation and regulations and guidance as to program development;

6. Availability of federal grants to assist in program development and the provisions in the grant application submitted by CHR;

7. Public hearing concerning the implications of the federal legislation for the Commonwealth;

8. Discussion of North Carolina’s identification of rural and urban lead hazard risks;

9. Implications of the loss of an $800,000 lead screening grant from the federal Centers for Disease Control;

10. Status of suggestion to include childhood blood-lead screening test in the coverage available under the Kentucky Health Policy Board standard benefit plans;

11. Extent to which Medicaid-eligible children are receiving blood lead-level test required under Early Periodic Screening Diagnosis and Treatment (EPSDT) services;

12. Suggestion to include blood lead-level screening test in pre-admission requirements for school age children; and

13. Consideration of CHR legislative proposal to implement certification and accreditation program and address lead poisoning screening needs of children.
INTERIM JOINT COMMITTEE ON JUDICIARY

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

Sen. Charles Berger          Sen. Ernie Harris
Sen. David Karem             Sen. Mike Moloney
Sen. Tim Philpot             Sen. Elizabeth Tori
Sen. David Williams          Sen. Gex Williams

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

PRESENTED TO THE
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Sen. Tim Philpot
Sen. David Williams
Rep. Mike Bowling
Rep. Perry Clark
Rep. Kathy Hogancamp
Rep. Frank Rasche
Rep. Arnold Simpson
INTERIM JOINT COMMITTEE ON JUDICIARY

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

Committee Activity

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

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

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

The next meeting was held on March 21, 1995, during which time the committee approved 96 RS BR 64 for prefiling. This bill relates to the priority of liens for the care of livestock and horses.
The next meeting was held April 18, 1995, and, there being no substantive business the committee adjourned.

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

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

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

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

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

Subcommittee Activity
Subcommittee on Juvenile Crime

The first meeting of the Subcommittee on Juvenile Crime was held on March 21, 1995. The first speaker was Secretary of the Cabinet for Human Resources (CHR), accompanied by the Justice Secretary who spoke about the new treatment facility for violent juveniles to be jointly operated by both Cabinets in Louisville. They were followed by representatives of the Kentucky State Police, who detailed the nature and extent of juvenile crime and violent juvenile crime in Kentucky and the nature of the offenses committed. The next speaker was from the Administrative Office of the Courts, who presented information on juveniles who had been tried as adults and the crimes for which
they were tried. Next, Commissioner of the Department for Social Services, from the Cabinet for Human Resources, spoke on the juvenile programs and services of the Cabinet for Human Resources. Next, the District Judge from Paducah detailed various innovative juvenile programs in his district and gave his recommendations for changes in the juvenile law. The final speaker was the Corrections Commissioner, who spoke about current and planned juvenile detention facilities, both locally operated and those under construction or planned by the state.

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

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

The next meeting of the subcommittee was held on June, 1995, and the subcommittee continued hearing from private vendors about their programs, services, and costs. The next speaker was the Attorney General, who spoke of a legislative program to 1. make violent juvenile felony records public; 2. waive juveniles to circuit court for trial on violent offenses; 3. place restrictions on diversion of any juvenile charged with a sex offense, arson, or cruelty to animals; 4. provide for notification of school authorities on the arrest of a juvenile for a violent offense. The next speaker was an Assistant County Attorney from Clay county, who spoke of his frustrations in having few if any options for dealing with juvenile offenses and the need for additional preadjudication juvenile detention facilities. The next speaker was an Assistant Fayette County Attorney, who
spoke of successes in the juvenile court programs in Fayette County and how these could be improved upon by additional facilities and programs. The county attorneys were followed by District Judges, who spoke of the need for additional programs and services, particularly in rural areas which do not have the programs and services available in large cities. The final speakers, from the Administrative Office of the Courts, described the duties and activities of court-designated workers, and the success of diversion programs and law-related education programs which they present throughout the state. The final speaker was of the Harvard Medical School, who has done research on violent juvenile offenders and murderers and spoke of her research findings and recommendations for treatment of these offenders.

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

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

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

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

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

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

The next meeting of the subcommittee was held on June 20, 1995. The first speaker was from the Harvard Medical School, spoke of her research with violent juvenile offenders and the counsel that she was providing the Cabinet for Human Resources and the Department of Corrections regarding the operation of the new Kentucky facility for violent juvenile offenders to be opened in Louisville. She was followed by the Justice Cabinet Secretary, who described the situation Kentucky faces with regard to incarceration of children in adult jails, including the possible loss of $800,000 in federal funding for juvenile programs. He was followed by additional private prison vendors and
Commonwealth's and County Attorneys. The prosecutors spoke of the need for additional prison and juvenile facility construction and for the stiffening of sentences for violent acts. The next speakers were county judges executive who spoke of problems with state standards for jail facilities and the lack of proper and timely reimbursements for jail medical and other costs. They urged the subcommittee to look into relaxation of jail standards, a better system of paying medical costs, and prompt reimbursement of counties for fees.

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

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

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

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

COMMITTEE ACTIVITY

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

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

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

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

The acting commissioner of the Department of Workers' Claims informed the committee that a consulting firm had been retained to: review the medical fee schedules; review other medical requirements in the workers' compensation program; review the overall medical costs in the program; and make recommendations to the commissioner on how to reduce medical costs by at least twenty-five percent as required by HB 928.
The chairman of the workers' compensation nominating commission informed the committee that the commission had made progress in developing a list of nominees for the positions of commissioner and the chief administrative law judge.


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

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

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

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

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

The LRC also referred a workers' compensation issue to the committee that was raised by the Administrative Regulations Subcommittee. The subcommittee requested that
the committee consider legislation that would expand the authority of workers' compensation administrative law judges to lump sum workers' compensation benefits. To date, the committee has taken no action on the issue.

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

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

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

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

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

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

Another item on the agenda was a discussion of overlapping and possibly duplicative provisions in HB 250 (the 1994 health care reform legislation) and HB 928. The chairman of the Health Policy Board and the Commissioner of the Department of
Workers' Claims explained the provisions. They reviewed four similar provisions in the two pieces of reform legislation: 24-hour pilot projects, medical records provisions, practice parameters, and data collection. Both speakers stressed that the Health Policy Board and the Department of Workers' Claims were working cooperatively on these matters and that they would try to eliminate any duplication that might occur.

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

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

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

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

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

An update of the residual market capacity problem and the controversy surrounding the KWCIP was provided by an attorney from the Department of Insurance. He also reviewed the pending workers' compensation rate filing for coal. If approved, the rates for the coal industry would have an average increase of 211%. Rates for the coal
industry had not increased since 1987, while non-coal rates have increased approximately 100% since 1987.

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

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

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

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

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

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

In the March, 1995, committee meeting, 803 KAR 25:160, an administrative regulation relating to allowable reimbursement levels for workers' compensation medical depositions, reports, and medical records, was discussed. According to the chief administrative law judge with the Department of Workers' Claims, a committee of doctors and lawyers surveyed providers and then developed the proposed schedule. The maximum charge for a medical report and for completing a Form 107 or 108 is $200. Medical depositions may not exceed a charge of $250 for the first half hour and $100 for each
subsequent 15-minute period. Copying charges for medical records were limited to 50 cents per page plus postage.

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

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

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

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

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

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

The Secretary of Workforce Development and the Commissioner of the Department of Employment Services explained the purpose of Executive Order 95-289. The purpose was to place all major employment and training activities in state government
within a single cabinet. The affected employees would not lose merit system protection. The unification follows the federal trend of consolidating related job training and workforce activities. The committee approved the transfer executive order.

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

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

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

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

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

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

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

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

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

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

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

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

The second item on the agenda consisted of a review of an administrative regulation dealing with utilization review and medical bill audits (803 KAR 25:190) in the workers' compensation program. The regulation was explained by the Commissioner of the Department of Workers' Claims. The committee raised no objections to the regulation.
The last item discussed was a memorandum from a legislator to the committee concerning the plight of miners who had worked for Southeast Coal. The memorandum invited the committee to join the legislator in requesting the Attorney General to investigate whether any wrongdoing by state officials or others had occurred in the Southeast Coal situation. No action was taken.

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

**Subcommittee on Employment Standards and Labor Relations**

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

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

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

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

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

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

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

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

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

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

The Commissioner of the Department of Adult Education and Literacy described the progress made in addressing the problem of adult illiteracy in the Commonwealth. Adult education has gone beyond just offering GED programs. Thanks to increased funding, the department has begun to assist adults in mastering the basic skills needed for successful employment, in cooperation with local businesses. Several business representatives recounted how the essential workplace skills training developed with the Cabinet had helped them retain employees and improve their job skills.
REPORT OF THE 1994-95
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Senator David Boswell, Ex-Officio
Representative Denver Butler, Ex-Officio
INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

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

COMMITTEE ACTIVITY

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

Charitable Gaming

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

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

In response to that concern, the Committee held a teleconference on charitable gaming. Teleconference sites located in five areas of the state - Ashland, Hazard, Bowling Green, Murray, and Louisville - were connected with the meeting room in Frankfort. Information concerning the new law, including a video presentation that outlined the requirements of the law, and a briefing from the Director of the Division of Charitable Gaming, was presented. Attendees were subsequently permitted to ask questions on any matter pertaining to charitable gaming. A similar meeting was held the next month in Southgate, Kentucky, where the Division also reported the creation of a newsletter to disseminate information to those engaged in charitable gaming. A prime issue discussed at that meeting was the definition of "compensation," as it relates to volunteers of charitable
gaming activities. The Division responded that providing refreshments and tipping violated the "no compensation" rule for volunteers and agreed, at the behest of the Committee, to revise its administrative regulations so as to permit a charitable organization to give its volunteer workers refreshments while volunteering at the charitable gaming activity.

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

Home Inspectors

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

**Licensing of Fire Alarm Contractors**

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

**North American Free Trade Agreement**

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

**Racing Issues**

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

At a subsequent meeting, the Committee viewed a slide presentation on the impact racing legislation has had on Kentucky tracks generally, and Turfway Park particularly. An official at the racetrack reported that there was a significant increase in wagers at the
race tracks, and that much of this increase can be attributed to the legalization of wholecard simulcasting in 1994. He also reported that the increases noted accounted for increased employment and capital improvements in the area.

**Alcoholic Beverages**

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

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

**Subcommittee on Business Regulation**

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

Over the past several months, the subcommittee has worked diligently on the proposals referred to it from the Interim Joint Committee on Occupations and Professions. Individuals testifying before the subcommittee included representatives of the malt
beverage industry and representatives of the home inspection industry, along with the 
sponsors of the various pieces of legislation.

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

**Subcommittee on Charitable Gaming**

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

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

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

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