

**CHAPTER 526****(SB 1)**

AN ACT relating to adult education.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

***The General Assembly recognizes that many adults need significant improvement in their knowledge and skills to be full participants in Kentucky's workforce and society, to develop and maintain healthy families, and to continue their education and training as necessary throughout their lifetimes. The General Assembly also recognizes that:***

- (1) Adult illiteracy is a fundamental barrier to every major challenge facing Kentucky, including early childhood education, education reform, economic development, and improving the health and well-being of Kentucky's families and communities;***
- (2) Kentucky must be committed to addressing the low level of education of the adult population from all dimensions of state and local government, all education institutions, business and civic leaders, voluntary organizations, and all others that interact with the problem of adult illiteracy; and***
- (3) Kentucky must have a multi-faceted strategy to address the diverse needs of the undereducated adult population in all counties and regions of the state.***

Section 2. KRS 164.003 is amended to read as follows:

- (1) The General Assembly hereby finds that:
  - (a) The general welfare and material well-being of citizens of the Commonwealth depend in large measure upon the development of a well-educated and highly-trained workforce;
  - (b) The education and training of the current and future workforce of the Commonwealth can provide its businesses and industries with the competitive edge critical to their success in the global economy and must be improved to provide its citizens the opportunity to achieve a standard of living in excess of the national average; and
  - (c) The positive advancement of the welfare of the citizens of the Commonwealth through the transmission of knowledge can only be achieved by the incorporation of ethical standards, the historic American moral principles promoted by the nation's Founding Fathers, into Kentucky public instruction, state educational training, and personal development of its teachers, students, and people, and affirms President George Washington's statement in his September 19, 1796, farewell address: "Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable."
- (2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2020:
  - (a) A seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance economic development and quality of life;

- (b) A major comprehensive research institution ranked nationally in the top twenty (20) public universities at the University of Kentucky;
  - (c) A premier, nationally recognized metropolitan research university at the University of Louisville;
  - (d) Regional universities, with at least one (1) nationally recognized program of distinction or one (1) nationally recognized applied research program, working cooperatively with other postsecondary institutions to assure statewide access to baccalaureate and master's degrees of a quality at or above the national average;
  - (e) A comprehensive community and technical college system with a mission that assures, in conjunction with other postsecondary institutions, access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program, the training necessary to develop a workforce with the skills to meet the needs of new and existing industries, and remedial and continuing education to improve the employability of citizens; and
  - (f) An efficient, responsive, and coordinated system of *providers*~~[autonomous institutions]~~ that delivers educational services to *all adult* citizens in quantities and of a quality that is comparable to the national average *or above and significantly elevates the level of education of the adults of the Commonwealth.*
- (3) The achievement of these goals will lead to the development of a society with a standard of living and quality of life that meets or exceeds the national average.
  - (4) The achievement of these goals will only be accomplished through increased educational attainment at all levels, and contributions to the quality of elementary and secondary education shall be a central responsibility of Kentucky's postsecondary institutions.
  - (5) The furtherance of these goals is a lawful public purpose that can best be accomplished by a comprehensive system of postsecondary education with single points of accountability that ensure the coordination of programs and efficient use of resources.

Section 3. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

- (1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;
- (2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;
- (3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;
- (4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall

have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;

- (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;
- (6) Engage in analyses and research to determine the overall needs of postsecondary education **and adult education** in the Commonwealth;
- (7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;
- (8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;
- (9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, ~~and~~ the Kentucky Community and Technical College System, **and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including, but not limited to, appropriations to the Department for Adult Education and Literacy.** The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;
- (10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;
- (11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.  
  
(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

- (12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;
- (13) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;
- (14) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;
- (15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:
  - (a) Consistency with the institution's mission and the strategic agenda;
  - (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;
  - (c) Elimination of unnecessary duplication of programs within and among institutions; and
  - (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;
- (16) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;
- (17) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;
- (18) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

- (19) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;
- (20) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;
- (21) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment;
- (22) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;
- (23) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;
- (24) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include, but not be limited to, the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;
- (25) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;
- (26) Select and appoint a president of the council under KRS 164.013;
- (27) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;
- (28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;
- (29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;
- (30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions;
- (31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;
- (32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions through the waiver of tuition for college credit coursework in the

public postsecondary education system. Any regular full-time employee of a postsecondary public institution may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term; ~~and~~

- (33) ***Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Department for Adult Education and Literacy, under the provisions of Section 4 of this Act for raising the knowledge and skills of the state's adult population. The council shall:***
- (a) ***Promote coordination of programs and responsibilities linked to the issue of adult education with the Department for Adult Education and Literacy and with other agencies and institutions;***
  - (b) ***Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;***
  - (c) ***Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;***
  - (d) ***Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law; and***
  - (e) ***Administer the adult education and literacy initiative fund created under Section 7 of this Act; and***
- (34) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 4. KRS 164.0203 is amended to read as follows:

- (1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term objectives in furtherance of the long-term goals established in KRS 164.003(2).
- (2) (a) The purpose of the strategic agenda is to further the public purposes under KRS 164.003 by creating high-quality, relevant, postsecondary education ***and adult education*** opportunities in the Commonwealth. The strategic agenda shall:
  1. Serve as the public agenda for postsecondary education ***and adult education*** for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;
  2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions ***and providers*** that serve them; and
  3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

- (b) The council shall develop a strategic implementation plan, which may be periodically revised, to achieve the strategic agenda. The strategic agenda shall serve as a guide for institutional plans and missions.
- (3) The framework for the strategic implementation plan of the strategic agenda shall include the following elements:
- (a) A mission statement;
  - (b) Goals;
  - (c) Principles;
  - (d) Strategies and objectives;
  - (e) Benchmarks; and
  - (f) Incentives to achieve desired results.
- (4) The implementation plan for the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of Kentucky's employers.
- (5) The council shall develop benchmarks using criteria that shall include, but not be limited to:
- (a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;
  - (b) Comparison of regions and areas within the Commonwealth and comparisons of the Commonwealth to other states and the nation; and
  - (c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in KRS 164.095.
- (6) The council shall review the goals established by KRS 164.003(2) at least every four (4) years and shall review its implementation plan at least every two (2) years.
- (7) In developing the strategic agenda, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda and strategic implementation plan, the council shall distribute copies to each local school district.
- (8) ***The strategic agenda shall include a long-term strategy, developed in partnership with the Department for Adult Education and Literacy, for raising the knowledge and skills of Kentucky's adult population, and ensuring lifelong learning opportunities for all Kentucky adults, drawing on the resources of all state government cabinets and agencies, business and civic leadership, and voluntary organizations.***

Section 5. KRS 164.035 is amended to read as follows:

The Council on Postsecondary Education, ***in consultation with the Department for Adult Education and Literacy***, shall ***assess the need for technical assistance, training, and other***~~establish regional advisory groups and shall provide necessary staff~~ support to assist in the development of ***adult education and***~~regional strategies for~~ workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The ***council shall promote the involvement of***~~regional advisory groups shall be encouraged to:~~

- (1) ~~Involvement~~ universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives ~~[from regional and state labor market areas]~~; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies ~~]; and~~
- (2) ~~Assist with an annual review of progress toward the regional strategies].~~

Section 6. KRS 151B.120 is amended to read as follows:

- (1) The commissioner of the Department for Adult Education and Literacy and the commissioner of the Department for Technical Education may enter into agreements to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the *secretary of the Workforce Development Cabinet* ~~[State Board for Adult and Technical Education at its next regularly scheduled meeting]~~ and shall not be subject to the requirements of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a detailed training plan approved by the appropriate commissioner. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.
- (2) Each commissioner may approve authorization for his department to enter into agreement with industries whereby the industry may be reimbursed directly for the following services:
- The cost of instructors' salaries when the instructor is an employee of the industry to be served;
  - Cost of only those supplies, materials, and equipment used exclusively in the training program; and
  - Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 7. KRS 151B.142 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

- (1) There is created in the *Council on Postsecondary Education* ~~[Department of Adult Education and Literacy of the Cabinet for Workforce Development]~~, a special fund to be known as the adult education and literacy initiative fund, which shall consist of moneys appropriated by the General Assembly, gifts, grants, other sources of funding, public and private, and interest accrued by the fund. This fund shall not lapse at the end of a fiscal year but shall be carried forward to be used only for the purposes specified in this section. *Moneys accumulated in this fund on the effective date of this Act shall remain in the fund and be transferred to the Council on Postsecondary Education to be used for purposes stated in this section.*
- (2) The purpose of the adult education and literacy initiative fund shall be to *support strategies for adult education, to provide statewide initiatives for excellence, and to provide funds for research and development activities* ~~[provide incentive grants to qualified providers to develop innovative approaches to address problems of adult education and literacy in Kentucky, to develop cost-effective delivery systems for adult education and literacy, and to research the effectiveness of different models for providing adult education and literacy programming. Criteria for the incentive grants and the process by which they are awarded shall be developed by the Department for Adult Education and Literacy with the advice of the~~

~~State Advisory Council for Adult Education and Literacy. The State Board for Adult and Technical Education shall approve the grants to be funded based on the recommendations of the Department for Adult Education and Literacy}.~~

- (3) ***The council, in collaboration with the Department for Adult Education and Literacy, shall establish the guidelines for the use, distribution, and administration of the fund, financial incentives, technical assistance, and other support for strategic planning; and guidelines for fiscal agents to assess county and area needs and to develop strategies to meet those needs.***
- (4) ***The fund shall include the following strategies:***
- (a) ***Statewide initiatives. Funds shall be used to encourage collaboration with other organizations, stimulate development of models of adult education programs that may be replicated elsewhere in the state, provide incentives for adults, employers, and providers to encourage adults to establish and accomplish learning contracts, provide incentives to encourage participation in adult education, assist providers of county and area programs in areas of highest need, and for other initiatives of regional or statewide significance as determined by the council. The Collaborative Center for Literacy Development: Early Childhood through Adulthood created under Section 29 of this Act shall evaluate the reading and literacy components of model programs funded under this paragraph.***
- (b) ***Research and demonstration. The funds shall be used to develop:***
1. ***Standards for the preparation, professional development, and support for adult educators with the advice of the Department for Adult Education and Literacy and as compatible with funds provided under Title II of the Federal Workforce Investment Act;***
  2. ***A statewide competency-based certification for transferable skills in the workplace; and***
  3. ***A statewide public information and marketing campaign.***

Section 8. KRS 151B.023 is amended to read as follows:

- (1) The Department for Adult Education and Literacy is hereby created ***to carry out the statewide mission on adult education. The department shall implement the twenty (20) year state strategy to reduce the number of adults at the lowest levels of literacy and most in need of adult education and literacy services.***
- (2) ***The Department for Adult Education and Literacy shall be*** ~~and is~~ attached to the Cabinet for Workforce Development ***for administrative purposes to coordinate adult education services.*** The Department for Adult Education and Literacy shall be composed of the Division of Program Services, the Division of Workforce Investment, and the Division of Management Services. Each division shall be headed by a director appointed by the commissioner of the Department for Adult Education and Literacy, and shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Adult Education and Literacy as set forth by administrative order.
- ~~(3){(2)}~~ The Department for Adult Education and Literacy shall be headed by a commissioner. The appointment of the commissioner shall be made ~~by~~ ~~from a list of three (3) names submitted by the State Board for Adult and Technical Education to~~ the secretary of the Cabinet for

Workforce Development *with the approval of* ~~and~~ the Governor. ~~The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor.~~ The commissioner shall have general supervision and direction over all functions of the department and its employees and shall be responsible for carrying out the programs and policies of the department. ~~The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education.~~ The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned to the department.

- (4)~~(3)~~ The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of programs and services in adult education and literacy. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared-cost basis or on a total cost recovery basis. The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.
- (5)~~(4)~~ The Department for Adult Education and Literacy shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for adult education and literacy. ~~The department shall be under the jurisdiction of the State Board for Adult and Technical Education for all appropriate purposes under this chapter.~~ All appropriate rights, responsibilities, and benefits under this chapter governing adult education and literacy personnel and programs shall apply to the Department for Adult Education and Literacy.
- (6)~~(5)~~ The commissioner shall, from time to time, prepare or cause to be prepared ~~, and submit for approval and publication by the State Board for Adult and Technical Education,~~ any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of adult education and literacy.
- (7)~~(6)~~ The department, *in consultation with the Council on Postsecondary Education*, shall prepare a biennial budget request *consistent with the statewide mission on adult education* ~~and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.~~

Section 9. KRS 151B.405 is amended to read as follows:

As used in KRS 151B.400 to 151B.410, unless the context indicates otherwise:

- (1) "Adult education" means *for programs funded under the Federal Workforce Investment Act of 1998, services or instruction below the postsecondary level for individuals* ~~literacy, adult basic, adult secondary, and GED services and instruction below the college level, pursuant to the National Literacy Act, Public Law 102-73, for adults who are not required to be enrolled in school~~:
- (a) *Who have attained the age of sixteen (16) years of age;*
- (b) *Who are not enrolled or required to be enrolled in secondary school under state law* ~~nor have a certificate of graduation from a school providing secondary education~~; *and* ~~or~~
- (c)~~(b)~~ — *Who:* ~~Have not achieved an equivalent level of education; or~~
- I.* ~~(c)~~ — Lack sufficient mastery of basic educational skills to *enable the*

*individuals to function effectively in society;* ~~or~~

2.~~(d)~~ Are unable to speak, read, or write the English language ~~with sufficient proficiency to get or retain employment commensurate with their real abilities;~~  
or

3. *Do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education;*

- (2) *"Family literacy services" means services that are of sufficient intensity in terms of hours, and of sufficient duration, to assist a family to make sustainable increases in its literacy level, and integrate the activities described in Section 11 of this Act*~~"GED" means General Educational Development~~; and
- (3) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential.

Section 10. KRS 151B.410 is amended to read as follows:

- (1) The Department for Adult Education and Literacy shall *promulgate necessary administrative regulations and administer a statewide*~~an~~ adult education *and literacy*~~learning~~ system *throughout*~~in regions of~~ the state. The adult education *and literacy*~~learning~~ system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to life-long learning.
- (a) Services shall be provided at multiple sites appropriate for adult learning including vocational and technical *colleges*~~schools~~, community colleges, regional universities, adult education centers, *public schools, libraries*, family resource centers, adult correctional facilities, ~~and~~ other institutions, *and through the Kentucky Commonwealth Virtual University. Services shall be targeted to communities with the greatest need based on the number of adults at literacy levels I and II as defined by the 1997 Kentucky Adult Literacy Survey and other indicators of need.*
- (b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.
- (c) Multiple funding sources, program support, and partnerships to administer the adult education *and literacy*~~learning~~ system may include~~: the Adult Education Act as amended by the National Literacy Act; Kentucky Education Reform Act funded family resource centers; Job Training Partnership Act; Kentucky Bluegrass State Skills Corporation; Job Opportunities and Basic Skills program; adult technical education; community college system; Parent and Child Education programs;~~ student scholarship and grants; fees for services rendered; and other general, agency, local, *state*, federal, and private funds.
- (2) Services included as part of the adult education *and literacy*~~learning~~ system shall include, but not be limited to ~~;~~
- (a) ~~;~~functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computing, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills~~;~~

- (b) ~~Literacy and adult basic education which includes learning for those with academic educational skills below the ninth grade level;~~
  - (c) ~~Adult secondary education that includes learning above the ninth grade level including GED preparation and the external diploma program, that is a competency-based assessment system which credentials mature adults who have acquired high school level skills through life experiences;~~
  - (d) ~~Family literacy programs that have a goal of intergenerational transfer of cognitive skills, support of children's education, participation in Kentucky Education Reform Act, and breaking the poverty cycle, by offering basic skills and competencies with parenting, life skills, and parent-child interactive activities; and~~
  - (e) ~~English as a second language programs for adults who have limited English proficiency.~~
- (3) (a) ~~The Department for Adult Education and Literacy within the Cabinet for Workforce Development may establish regional adult education advisory committees, representing adult education practitioners, state vocational technical and community college educators, employment and career advisors, business and industry participants, employees, students, and organized labor.~~
- (b) ~~The adult education advisory committees shall meet at least twice a year to:~~
1. ~~Advise the Department for Adult Education and Literacy on the regional training services and needs in the area of adult education and functionally-contexted workplace essential skills;~~
  2. ~~Report the number and location of referral and access points that have identified an adult population who is or could benefit from service and has an active interest in participation;~~
  3. ~~Report the number and location of entrance points that have identified an adult population who has been referred for service; and~~
  4. ~~Report the number of adults served and the number completing programs, method of payment for services, outcomes of service provision, and career and employment change following program completion.~~
- (3)(4) ~~In administering an adult education *and literacy* system, the Department for Adult Education and Literacy shall:~~
- (b) ~~*Assist providers with the development of*~~ ~~Establish regions for purpose of implementing an adult education learning system assisting local programs;~~
  - (c) ~~Make provision for~~ quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including *high school equivalency diploma* ~~{GED}~~ preparation, the external diploma program, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;
  - (b) ~~{(e)}~~ ~~Provide~~ ~~{Develop student}~~ assessments *of each student's skill and competency level* ~~{in coordination with other educational and employment entities.}~~ allowing assessments to be shared *with other educational and employment entities* when

- necessary *for providing* ~~[with appropriate personnel for accessing students,]~~ additional educational programs, taking into consideration student confidentiality;
- (c) ~~[(d)]~~ *Assist adult educators to meet* ~~[Establish]~~ professional *standards* ~~[credentials for instructors, and make provision for the development of those providers who have not attained the established credentials];~~
- (e) ~~—~~ Develop criteria for certifying adult education providers];
- (d) ~~[(f)]~~ *Create an awareness program in cooperation with the Administrative Office of the Courts to ensure that District and Circuit Court Judges are aware of the provisions of KRS 533.200 and the methods to access adult education and literacy programs for persons sentenced under the statute;*
- (e) Develop administrative regulations ~~[for consideration by the Cabinet for Workforce Development and the State Board for Adult and Technical Education,]~~ including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;
- (f) ~~[(g)]~~ ~~—~~ Require and monitor compliance with *the department's* ~~[Cabinet for Workforce Development]~~ administrative regulations and policies; and
- (g) ~~[(h)]~~ ~~—~~ Develop and implement performance measures and benchmarks.

Section 11. KRS 158.360 is amended to read as follows:

- (1) ~~The [State Board for Adult and Technical Education shall approve grants and authorize the] Department for Adult Education and Literacy *shall provide technical assistance to providers to develop family literacy services* [to disburse funds to selected local educational agencies, public or private nonprofit agencies, postsecondary educational institutions, and other institutions that have the ability to provide model family literacy services to adults and families. The programs shall be known as Parent and Child Education for Family Independence Programs. The Department for Adult Education and Literacy shall annually report to the State Board for Adult and Technical Education, and the Legislative Research Commission for each grantee, the total funds expended, the number of parents and children served, the number of participants receiving public assistance at the time they enter the program, and the number of participants who have been removed from public assistance because of participation in the program].~~
- (2) The programs shall:
- (a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;
  - (b) Provide the children with developmentally appropriate educational activities;
  - (c) Provide planned high-quality educational experiences requiring interaction between parents and their children;
  - (d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of undereducation and poverty; and
  - (e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services];

~~The programs may operate on a year round basis. The programs may also be blended with other programs as long as all criteria in this subsection are met.~~

- ~~(3) Eligible participants shall be those parents who are sixteen (16) years of age or older, not enrolled in a regular secondary school program, and who do not possess a high school credential, or who have a high school credential but function below a twelfth grade level and their children, age zero (0) to eight (8) years.~~
- ~~(4) Priority in the selection of grant awards shall be based on the county's low level of literacy in the adult population, high numbers of unemployed, and high levels of poverty.~~
- ~~(5) A minimum of five percent (5%) of the funds appropriated to support the Parent and Child Education for Family Independence statewide effort shall be retained by the Department for Adult Education and Literacy to provide a statewide professional staff development program].~~

SECTION 12. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*The General Assembly recognizes the critical condition of the educational level of Kentucky's adult population and seeks to stimulate the attendance at, and successful completion of, programs that provide a high school equivalency diploma. Incentives shall be provided to fulltime employees who complete a high school equivalency diploma program within one (1) year and their employers. For purposes of this section "equivalent diploma" means a high school equivalency diploma issued after successful completion of the General Educational Development tests.*

- (1) The Department for Adult Education and Literacy in conjunction with the Council on Postsecondary Education shall promulgate administrative regulations to establish the operational procedures for this section. The administrative regulations shall include, but not be limited to, the criteria for:
 
  - (a) A learning contract that includes the process to develop a learning contract between the student and the adult education instructor with the employer's agreement to participate and support the student;*
  - (b) Attendance reports that validate that the student is studying for the high school equivalency diploma during the release time from work;*
  - (c) Final reports that qualify the student for the tuition discounts under subsection (2)(a) of this section and that qualify the employer for tax credits under subsection (3) of the section.**
- (2) (a) An individual who has been out of secondary school for at least three (3) years, develops and successfully completes a learning contract that requires a minimum of five (5) hours per week to study for the high school equivalency diploma tests, and passes the tests shall earn a tuition discount of two hundred fifty dollars (\$250) per semester for a maximum of four (4) semesters at one (1) of Kentucky's public postsecondary institutions.*
  - (b) The department, with the cooperation of the Council on Postsecondary Education, shall work with the postsecondary institutions to establish notification procedures for students who qualify for the tuition discount.*
- (3) An employer who assists an individual to complete his or her learning contract under the provisions of this section shall receive a state income tax credit for a portion of the released*

*time given to the employee to study for the tests. The application for the tax credit shall be supported with attendance documentation provided by the Department for Adult Education and Literacy and calculated by multiplying fifty percent (50%) of the hours released for study by the student's hourly salary, and not to exceed a credit of one thousand two hundred fifty dollars (\$1250).*

Section 13. KRS 154.12-204 is amended to read as follows:

As used in KRS 154.12-205 to 154.12-208, unless the context requires otherwise:

- (1) "Applicant" means an educational institution, and business or industry that has made joint application for a grant-in-aid as authorized by KRS 154.12-205 to 154.12-208;
- (2) "Board" means the board of directors of the Bluegrass State Skills Corporation;
- (3) "Business and industry" means a private corporation, limited liability company, registered limited liability partnership, institution, firm, person, group, or other entity or association of the same, concerned with commerce, trade, manufacturing, or the provision of services within the Commonwealth, or a public or nonprofit hospital licensed by the Commonwealth, *or any company whose primary purpose is the sale of goods at retail, if specific funds for grants-in-aid to retail business and industry are appropriated by the General Assembly*;
- (4) "Corporation" means the Bluegrass State Skills Corporation, or BSSC;
- (5) "Educational institution" means a public or nonpublic secondary or post-secondary institution or an independent *provider*~~[institution]~~ within the Commonwealth authorized by law to provide a program of skills training or education~~[beyond the secondary school level]~~;
- (6) "Grant-in-aid" means funding that is provided to an educational institution and business and industry by the BSSC for the development or expansion of a program as provided in this chapter;
- (7) "Program" or "program of skills training or education consistent with employment needs" means a coordinated course of instruction which is designed to prepare individuals for employment in a specific trade, occupation, or profession. Such instruction may include:
  - (a) Classroom instruction;
  - (b) Classroom-related field, shop, factory, office, or laboratory work; and
  - (c) *Basic skills*, entry level training, job upgrading, retraining, and advance training.
- (8) "Technical assistance" means professional and any other assistance provided by business and industry to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program as defined herein.

Section 14. KRS 154.12-2084 is amended to read as follows:

As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

- (1) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the authority to receive skills training investment credits in accordance with KRS 154.12-2084 to 154.12-2089;
- (2) "Approved costs" means:

- (a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
  - (b) Administrative fees charged by educational institutions in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company and specifically approved by the Bluegrass State Skills Corporation;
  - (c) The cost of supplies, materials, and equipment used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
  - (d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
  - (e) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and
  - (f) All other costs of a nature comparable to those described in this subsection;
- (3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation created by KRS 154.12-205;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent *provider*~~[institution]~~ within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level ***or to adult persons without a high school diploma or its equivalent***;
- (6) "Employee" means any person:
- (a) Who is currently a permanent full-time employee of the qualified company; and
  - (b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company;
- For purposes of this subsection, a "full-time employee" means an employee who has been employed by the qualified company for a minimum of thirty-five (35) hours per week for more than two hundred fifty (250) work days during the most recently ended calendar year and is subject to the tax imposed by KRS 141.020;
- (7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;
- (8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received

preliminarily approval from the authority under KRS 154.12-2088 to receive a certain maximum amount of skills training investment credits;

- (9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, registered limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal entity through which business is conducted that has been actively engaged in any of the following qualified activities within the Commonwealth for not less than three (3) consecutive years: manufacturing, including the processing, assembling, production, or warehousing of any property; processing of agricultural and forestry products; telecommunications; health care; product research and engineering; tool and die and machine technology; mining; tourism and operation of facilities to be used in the entertainment, recreation, and convention industry; and transportation in support of manufacturing. Notwithstanding the provisions of this subsection, any company whose primary purpose is the sale of goods at retail shall not constitute a qualified company;
- (10) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment including, but not limited to, technical and interpersonal skills training, and training that is designed to enhance the computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas, ***are unable to advance on the job***, or who risk displacement because their skill deficiencies inhibit their training potential for new technology; and
- (11) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, as provided in KRS 154.12-2086(1).

Section 15. KRS 157.360 is amended to read as follows:

- (1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.
- (2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:
- (a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay ***for***:
1. ***Alternative programs for students who are at-risk of dropping out of school before achieving a diploma; and***
  2. A hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;
- (b) The number and types of exceptional children in the district as defined by KRS 157.200. No later than October 1, 1993, specific weights for each category of exceptionality shall

be developed by the Department of Education and shall be used in the calculation of the add-on factor for exceptional children. Prior to the development of the necessary weights, the General Assembly shall determine the costs associated with the education of exceptional children based on the count of pupils with different exceptionalities, an appropriate pupil-teacher ratio, and total per-pupil costs; and

- (c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. No later than October 1, 1991, the Office of Education Accountability's Division of School Finance shall examine the components of the current system for allocating transportation funds, and recommend any needed changes to the General Assembly, the Governor, and the State Board for Elementary and Secondary Education. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.
- (3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year. No district shall receive an annual increase in state funds of less than eight percent (8%) for 1990-91 and five percent (5%) in 1991-92 or more than twenty-five percent (25%) in either year.
  - (4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:
    - 1. Twenty-four (24) in primary grades (kindergarten through third grade);
    - 2. Twenty-eight (28) in grade four (4);
    - 3. Twenty-nine (29) in grades five (5) and six (6);
    - 4. Thirty-one (31) in grades seven (7) to twelve (12);
  - (b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.
  - (c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).
  - (d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any

exceptional child from achieving his individual education program in the least restrictive environment.

- (5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.
- (6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.
- (7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.
- (8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.
- (9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds ( $\frac{2}{3}$ ) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third ( $\frac{1}{3}$ ) of the decrease for the first year of the decline.
- (10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).
- (11) (a) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in

agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Secondary Vocational Education in the Department of Education. Salary allotments for vocational agriculture teachers shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

- (b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.
  - (c) For the 1990-91 and the 1991-92 school years, an add-on appropriation shall be made to local school districts which are operating secondary vocational education programs. The amount provided in the budget shall be allocated on a per pupil basis and shall be used to meet the higher per student cost of operating vocational education programs.
- (12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and
- (b) Pursuant to administrative regulations of the Department of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education.
- (13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

Section 16. KRS 18A.115 is amended to read as follows:

- (1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:
  - (a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;
  - (b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;
  - (c) Members of boards and commissions;
  - (d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;
  - (e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;
  - (f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;
  - (g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;
  - (h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;
  - (i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;
  - (j) Physicians employed as such;
  - (k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;
  - (l) The judicial department, referees, receivers, jurors, and notaries public;
  - (m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;
  - (n) Patients or inmates employed in state institutions;

- (o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;
  - (p) Interim employees;
  - (q) Officers and members of the state militia;
  - (r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;
  - (s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;
  - (t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);
  - (u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;
  - (v) County and Commonwealth's attorneys and their respective appointees;
  - (w) Chief district engineers and the state highway engineer;
  - (x) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;
  - (y) Employees of the Kentucky Peace Corps;
  - (z) Employees of the Council on Postsecondary Education; and (aa) Chief information officer of the Commonwealth.
- (2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.
- (3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.
- (4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.
- (5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

- (6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.
- (7) *On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.*
- (8) *On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.*

Section 17. KRS 151B.010 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

- (1) "Appointing authority" means ~~the~~<sup>the</sup> commissioner *for the Department of Technical Education* or any person authorized by ~~the~~<sup>the</sup> commissioner to act on behalf of ~~the department~~<sup>his particular agency of the Cabinet for Workforce Development</sup> with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. ~~The~~<sup>Such</sup> designation shall be in writing and signed by both the commissioner and ~~the~~<sup>his</sup> designee.
- (2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of KRS 151B.035(3)(i).
- (3) "Board" means the State Board for Adult and Technical Education created by KRS 151B.095.
- (4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the ~~{Department for Adult Education and Literacy and the }~~Department for Technical Education are subject to personnel administration under this chapter.

- (5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.
- (6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.
- (7) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.
- (8) "Demotion" means a change in an employee's position to another class having less discretion or responsibility.
- (9) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education requiring certification or its equivalent.
- (10) "Employee" means a person regularly employed in a position in the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education for which compensation is on a full-time or part-time basis.
- (11) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education shall be subject to personnel administration under this chapter.
- (12) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an assistant Attorney General.
- (13) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.
- (14) "Initial probation" means the one (1) year period following initial appointment of certified and equivalent employees under KRS 151B.070 which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.
- (15) "Limited status" means employment that is renewable on an annual basis.
- (16) "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights granted to state employees or other disciplinary actions.
- (17) "Position" means employment involving duties requiring the services of one (1) person.
- (18) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.
- (19) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.

- (20) "Reemployment" means the rehiring of an employee with continuing status who has been laid off.
- (21) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of KRS 151B.080.
- (22) ~~"Region" means a grouping of counties as defined in respective state plans for vocational education.~~
- ~~(23)~~ "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay.
- (23)~~(24)~~ "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.
- ~~(24)~~~~(25)~~ "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.
- ~~(25)~~~~(26)~~ "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.
- ~~(26)~~~~(27)~~ "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position ~~as well as any assistant or secretary attached to the position,~~ who shall be exempt from the state service under KRS Chapter 18A and who is employed in the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education under this chapter.

Section 18. KRS 151B.035 is amended to read as follows:

- (1) The State Board for Adult and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education central *office and* ~~offices,~~ state-operated vocational facilities ~~and regional staffs~~. All other staff shall remain under the authority of the Kentucky Personnel Cabinet and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.
- (2) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.
- (3) The board shall promulgate comprehensive administrative regulations for full-time and parttime certified and equivalent staff governing:
  - (a) Establishment and abolishment of positions;
  - (b) Applications;
  - (c) Certification;

- (d) Classification and compensation plans;
  - (e) Incentive programs;
  - (f) Selection of employees;
  - (g) Types of appointments;
  - (h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;
  - (i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;
  - (j) Extent and duration of the state-operated area vocational education and technology centers' school term, use of school days, and extended employment;
  - (k) Employee evaluations;
  - (l) Programs to improve the work effectiveness of employees including staff development;
  - (m) Demotion;
  - (n) Dismissal;
  - (o) Layoffs;
  - (p) Suspensions and other disciplinary measures;
  - (q) Probationary periods, limited employment status, and continuing employment status;
  - (r) Promotion;
  - (s) Transfer;
  - (t) Appeals; and
  - (u) Employee grievances and complaints.
- (4) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A and shall have the force and effect of law, when approved by the board and after compliance with the provisions of KRS Chapter 13A.
- (b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.
- (c) No administrative body other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.
- (d) Policies and procedures for the implementation of administrative regulations shall be developed by the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education.
- (5) The commissioner for ~~Adult Education and Literacy and the commissioner for~~ Technical Education shall be the appointing *authority* ~~authorities~~ with respect to all personnel actions for *the department* ~~their respective departments~~. *The* ~~Each~~ commissioner may authorize a designee to act on behalf of *the* ~~his~~ agency with respect to employee appointments, position

establishments, payroll documents, reemployment lists, waiver requests, or other position actions. **Any personnel** ~~Such~~ designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

- (6) The board shall promulgate other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:
  - (a) The procedures to be utilized by the board in the conduct of hearings, consistent with KRS Chapter 13B;
  - (b) Discharge, as provided by this section;
  - (c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;
  - (d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;
  - (e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;
  - (f) Reemployment of laid-off employees in accordance with the provisions of this chapter;
  - (g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and
  - (h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.
- (7) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.
- (8) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.
- (9) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause. ***Effective August 15, 2000, appeals from assistants and secretaries in the Department for Technical Education and the Department for Adult Education and***

*Literacy attached to policymaking positions shall be governed by KRS 18A.095, effective August 15, 2000. The State Personnel Board, established in KRS 18A.045, shall hear appeals that are pending as of August 15, 2000, from assistants and secretaries attached to policymaking positions in the Department for Technical Education and personnel in the Department for Adult Education and Literacy.*

- (10) The board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.
- (11) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.
- (12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.
- (13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 19. KRS 151B.040 is amended to read as follows:

- (1) All certified, equivalent, and unclassified employees in the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education shall be:
  - (a) Provided the same health insurance coverage as all other state government employees provided in KRS 18A.225;
  - (b) Eligible to participate in the deferred compensation system provided for all state government employees by KRS 18A.250 to 18A.265;
  - (c) Provided the same life insurance coverage provided all state employees pursuant to KRS 18A.205 to 18A.215;
  - (d) Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made pursuant to KRS 45.101 in the performance of their official duties; no part of the reimbursement shall be included in or accounted as a part of their salaries;
  - (e) Ensured equal employment opportunity regardless of race, color, religion, national origin, disability, sex, or age; and

- (f) Given those holidays and rights granted state employees pursuant to KRS 18A.190.
- (2) Employees under the jurisdiction of the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent employees hired by the departments shall be placed in the Kentucky Teacher's Retirement System.

Section 20. KRS 151B.045 is amended to read as follows:

- (1) The records of the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.
- (2) (a) A personnel file shall be maintained by the departments for each employee. The files maintained by the departments shall be the official personnel file for the employees.
- (b) Each file shall include, but not be limited to, the employee's name, address, title of positions held, classifications, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, and awards. Each file shall contain the complete record and supporting documentation for each personnel action.
- (c) When an employee is reprimanded for misconduct, other infraction, or failure to perform duties in a proper or adequate manner, the supervising employee taking the action shall document the action in detail, and shall provide the employee with a copy of the documentation. The supervising employee shall inform the employee of his *or her* right to prepare a written response to the action taken after the employee has reviewed the written documentation prepared by the supervising employee. The employee's response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response in the employee's personnel file and shall transmit a copy to be placed in the central office personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for in this subsection have been placed in the employee's personnel files.
- (3) Upon written request, an employee shall have the right to examine his *or her* personnel file. An employee may comment in writing on any item in the file. ~~The~~~~Such~~ comments shall be made a part of the file and shall be attached to the specific record or document to which they pertain.
- (4) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.

Section 21. KRS 151B.055 is amended to read as follows:

- (1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the ~~Department for Adult Education and Literacy and the~~ Department for Technical Education.
- (2) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state: (a) The specific reasons for dismissal including:
1. The statutory or regulatory violation;

2. The specific action or activity on which the intent to dismiss is based;
  3. The date, time, and place of the action or activity; and
  4. The name of the parties involved; and
- (b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the commissioner or ~~a~~[his] designee.
- (3) The departments shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the commissioner or ~~a~~[his] designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:
- (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and
  - (b) The time limits and procedures to be followed by all parties in pretermination hearings.
- (4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice, the employee may request to appear, personally or with counsel if counsel is retained, to reply to the commissioner for adult and technical education or ~~a~~[his] designee.
- (5) The appearance shall be held six (6) working days after receipt of an employee's request to appear before the commissioner or ~~a~~[his] designee, excluding the day the employee's request is received, unless the employee and the commissioner or ~~a~~[his] designee agree to a later date.
- (6) No later than five (5) working days after the employee appears before the commissioner or ~~a~~[his] designee, excluding the day of the appearance, the commissioner or ~~a~~[his] designee shall:
- (a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and
  - (b) Notify the employee in writing of the decision.
- (7) If the commissioner or ~~a~~[his] designee determines that the employee shall be dismissed, the employee shall be notified in writing of:
- (a) The effective date of dismissal or other penalization; (b) The specific reason for the action, including:
    1. The statutory or regulatory violation;
    2. The specific action or activity on which the dismissal is based;
    3. The date, time, and place of the action or activities; and
    4. The names of the parties involved; and
  - (c) That the employee may appeal the dismissal to the State Board for Adult and Technical Education within thirty (30) days after receipt of this notification, excluding the day the notice is received.
- (8) A certified or equivalent employee with continuing status who is demoted or suspended shall be notified in writing of:
- (a) The demotion or suspension;

- (b) The effective date of the demotion or suspension; (c) The specific reason for the action including:
1. The statutory or regulatory violation;
  2. The specific action or activity on which the demotion or suspension is based;
  3. The date, time, and place of the action or activity; and
  4. The name of the parties involved; and
- (d) That the employee has the right to appeal to the State Board for Adult and Technical Education within thirty (30) days, excluding the day of receipt of notification.
- (9) Any employee or applicant for employment may appeal to the board on the grounds that the right to inspect or copy records, including preliminary and other supporting documentation, relating to the employee has been denied, abridged, or impeded. The board shall conduct a hearing to determine if the records related to the employee or applicant, and if the right to inspect or copy was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy the records has been denied, abridged, or impeded, the board shall order that the records be made available for inspection and copying.
- (10) Any certified, equivalent, or unclassified employee may appeal an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age to the board. Nothing in this section shall be construed to preclude any employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.
- (11) (a) Appeals to the State Board for Adult and Technical Education shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The ***Department for Technical Education***~~[departments]~~ shall be responsible for the distribution of the forms.
- (b) The appeal form shall be attached to any notice, or copy of the notice, of dismissal, demotion, suspension, involuntary transfer, or other penalization, or notice of any other action an employee may appeal under the provisions of this section.
- (c) Upon receipt of the appeal by the board, the~~[appropriate]~~ commissioner shall be notified, and the board shall schedule a hearing that shall be conducted in accordance with KRS Chapter 13B.
- (12) (a) Except as provided in this section, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject, or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section and KRS Chapter 13B.
- (b) The board may deny a hearing to an employee who has failed to file an appeal over which the board has jurisdiction or within the time prescribed by this section and to an unclassified employee who has failed to state the cause for dismissal. The board shall notify the employee of its denial in writing and shall inform the employee of his ***or her*** right to appeal the denial under the provisions of KRS 151B.060.

- (c) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon the information.
- (13) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:
- (a) Employ class action procedures; or (b) Conduct test representative cases.
- (14) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.
- (15) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of the individual's sex, age, or disability, the commissioner shall immediately reinstate the employee to his *or her* former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole.
- (b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his *or her* former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;
- (c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify, or rescind the disciplinary action; and
- (d) In all other cases, the board shall rescind the action taken or grant other relief to which the employee is entitled.
- (16) If a final order of the board is appealed, a court shall award reasonable attorney's fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. The award shall not include attorney's fees attributable to the hearing before the board.

Section 22. KRS 151B.065 is amended to read as follows:

- (1) (a) When a certified, equivalent, or unclassified employee has been finally ordered reinstated without loss of pay, pursuant to the provisions of KRS 151B.060, the board shall forward a certified copy of the order to the ~~{Department for Adult Education and Literacy or the }Department for Technical Education~~~~[as appropriate]~~. The department shall process proper payment to the employee for the period of suspension, the payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the judgments section of the general fund of the biennial state budget.

- (b) Gross moneys which are earned by the employee from other sources during the period of suspension shall set off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the previous job where dismissal occurred. The State Board for Adult and Technical Education shall by regulation provide an administrative procedure for determining reasonable earnings to be set off.
  - (c) All other deductions shall be deducted as required by law or by other state regulation.
- (2) (a) Both the employee's and employer's contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set-off or deduction, except for setoff caused by earnings on which employee and employer contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System have been paid.
- (b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which the employee participated prior to illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system of participation before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which the employee would have participated if dismissal had not occurred.

Section 23. KRS 151B.070 is amended to read as follows:

- (1) All certified and equivalent employees shall serve a one (1) year probationary period for renewal of limited status. An employee may be separated from the position or reduced in class during this initial probationary period and shall not have a right to appeal except as provided in KRS 151B.055. If the employee is separated from the position, notice in writing shall be received at least ten (10) working days prior to separation. A copy of the notification shall be forwarded to the commissioner. Unless the commissioner notifies the employee of separation prior to the end of the initial probationary period, the employee shall be eligible for renewable limited status. Limited status employees are subject to reemployment on an annual basis. ***Limited status employees may be dismissed without cause before the annual anniversary date.***
- (2) After completion of the initial probationary period, the individual shall be considered on limited status until successful completion of the fourth year, at which time the employee may be placed on continuing status.
- (3) An employee who has been assigned continuing status may not be demoted, disciplined, or dismissed without cause except as provided by provisions in this chapter.
- (4) An employee with continuing status who has been promoted shall serve a probationary period of one (1) year in the new position. During the period of promotional probation, the employee shall retain the rights and privileges granted by the provisions of this chapter to continuing status employees.
- (5) During the promotional probationary period, the employee with continuing status may be reverted at the discretion of the appointing authority to a position in the class formerly held.

- (6) A continuing status employee who has been laid off may return to a position with continuing status if an appropriate position is available.

Section 24. KRS 151B.080 is amended to read as follows:

- (1) It shall be unlawful to coerce certified and equivalent employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with applicable statutes and layoffs shall not be utilized as a method of dismissal.
- (2) In the same department, county, and job classification, temporary, emergency, limited status, and probationary employees shall be laid off before permanent full-time or permanent parttime employees with continuing status. The Department *for Technical Education* shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.
- (3) If two (2) or more employees subject to layoff in a layoff plan submitted to the commissioner have the same qualifications and similar performance evaluations, the employee with the lesser seniority shall be laid off first.
- (4) An employee who is laid off shall be placed on a reemployment list for the class of position from which laid off and for any class for which such employee is qualified.
- (5) For a period of three (3) years, laid-off employees shall be considered before any applicant from outside the ~~Department for Adult Education and Literacy or the~~ Department for Technical Education, except another laid-off employee with more seniority who is already on the list.
- (6) For a period of three (3) years, a laid-off employee shall not be removed from the list unless:
  - (a) The laid-off employee notifies *the* ~~his~~ department in writing that he *or she* no longer wishes to be considered for a position on the list;
  - (b) Two (2) written offers of appointment are declined, *the* ~~such~~ offers to be for a position of the same classification and salary, and located in the same *county or contiguous counties* ~~region~~, as the position from which laid off;
  - (c) *Two (2) written offers to schedule an interview are made and the laid-off employee fails to respond to a certified letter requesting the laid-off employee to schedule an interview within ten (10) working days;*
  - (d) ~~Without good cause,~~ The laid-off employee fails to report for an interview after notification in writing at least ten (10) calendar days prior to the date of the interview;
  - ~~(e)(d)~~ The laid-off employee cannot be located by postal authorities at the last address provided; or
  - ~~(f)(e)~~ —The laid-off employee has willfully violated the provisions of this chapter.
- (7) When a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, the employee's name may be removed from the list for all classes for which the maximum salary is the same as or less than that of the class of appointment.
- (8) When a laid-off employee is removed from the reemployment list, the employee shall be notified in writing and shall be notified of the right to appeal to the board under provisions of KRS 151B.055.

Section 25. KRS 151B.085 is amended to read as follows:

- (1) A layoff of an employee with continuing status in *the Department for Technical Education*~~[his department]~~ due to the abolition of a position, lack of funds, or economic or employment trends resulting in a lack of work or a material change in duties or organization shall comply with the provisions of this section.
- (2) Prior to the notification of layoff and prior to the layoff of an employee, ~~the~~<sup>the</sup> department shall prepare a layoff plan. The plan shall contain the name of the employee and the reasons, in detail, for the layoff. Upon approval of the plan by the ~~appropriate~~ commissioner, the employee shall be notified of the pending layoff, and of:
  - (a) The reason for the layoff;
  - (b) The procedures established by the provisions of KRS 151B.080, and this section for the layoff of employees; and
  - (c) The rights granted employees subject to layoff and to laid-off employees.
- (3) (a) An employee subject to layoff shall be considered for a vacant position within ~~the~~<sup>his</sup> department of the same pay grade, level of duties, and responsibilities for which the employee is qualified.
  - (b) If a vacancy does not exist, the employee shall be considered for any vacant position within his department for which qualifications are held.
- (4) If no position is available to an employee subject to layoff under the procedure established by subsection (3) of this section, the employee shall be notified of the layoff in writing at least thirty (30) days prior to implementation of the layoff.

Section 26. KRS 158.360 is amended to read as follows:

- (1) ~~The State Board for Adult and Technical Education shall approve grants and authorize the Department for Adult Education and Literacy to disburse funds to selected local educational agencies, public or private nonprofit agencies, postsecondary educational institutions, and other institutions that have the ability to provide model family literacy services to adults and families. The programs shall be known as Parent and Child Education for Family Independence Programs. The Department for Adult Education and Literacy shall annually report to the State Board for Adult and Technical Education, and the Legislative Research Commission for each grantee, the total funds expended, the number of parents and children served, the number of participants receiving public assistance at the time they enter the program, and the number of participants who have been removed from public assistance because of participation in the program.~~  
*shall provide technical assistance to providers to develop family literacy services. The technical assistance shall be evaluated on a regular basis by contracted evaluators outside the department*
- (2) The programs shall:
  - (a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;
  - (b) Provide the children with developmentally appropriate educational activities;
  - (c) Provide planned high-quality educational experiences requiring interaction between parents and their children;

- (d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of undereducation and poverty; and
- (e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services;

~~The programs may operate on a year-round basis. The programs may also be blended with other programs as long as all criteria in this subsection are met.~~

- (3) ~~Eligible participants shall be those parents who are sixteen (16) years of age or older, not enrolled in a regular secondary school program, and who do not possess a high school credential, or who have a high school credential but function below a twelfth grade level and their children, age zero (0) to eight (8) years.~~
- (4) ~~Priority in the selection of grant awards shall be based on the county's low level of literacy in the adult population, high numbers of unemployed, and high levels of poverty.~~
- (5) ~~A minimum of five percent (5%) of the funds appropriated to support the Parent and Child Education for Family Independence statewide effort shall be retained by the Department for Adult Education and Literacy to provide a statewide professional staff development program.~~

Section 27. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

- (1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;
- (2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;
- (3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;
- (4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;
- (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;
- (6) Engage in analyses and research to determine the overall needs of postsecondary education *and adult education* in the Commonwealth;

- (7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;
- (8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;
- (9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, ~~and~~ the Kentucky Community and Technical College System, ***and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including, but not limited to, appropriations to the Department for Adult Education and Literacy.*** The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;
- (10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;
- (11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.  
  
(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;
- (12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;
- (13) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track

program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;

- (14) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;
- (15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:
  - (a) Consistency with the institution's mission and the strategic agenda;
  - (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;
  - (c) Elimination of unnecessary duplication of programs within and among institutions; and
  - (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;
- (16) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;
- (17) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;
- (18) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;
- (19) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;
- (20) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;
- (21) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through

appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment;

- (22) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;
- (23) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;
- (24) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include, but not be limited to, the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;
- (25) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;
- (26) Select and appoint a president of the council under KRS 164.013;
- (27) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;
- (28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;
- (29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;
- (30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions;
- (31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;
- (32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term; ~~and~~
- (33) ***Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Department for Adult Education and Literacy, for raising the knowledge and skills of the state's adult population. The council shall:***

- (a) *Promote coordination of programs and responsibilities linked to the issue of adult education with the Department for Adult Education and Literacy and with other agencies and institutions;*
  - (b) *Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;*
  - (c) *Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;*
  - (d) *Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and*
  - (e) *Administer the adult education and literacy initiative fund created under Section 7 of this Act; and*
- (34) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 28. KRS 164.035 is amended to read as follows:

The Council on Postsecondary Education, *in consultation with the Department for Adult Education and Literacy and the Collaborative Center for Literacy Development: Early Childhood through Adulthood* shall *assess the need for technical assistance, training, and other* ~~establish regional advisory groups and shall provide necessary staff~~ support to assist in the development of *adult education and* ~~regional strategies for~~ workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The *council shall promote the involvement of* ~~regional advisory groups shall be encouraged to:~~

- ~~(1) Involve~~ universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives ~~from regional and state labor market areas~~; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies ~~; and~~
- ~~(2) Assist with an annual review of progress toward the regional strategies~~.

Section 29. KRS 164.0207 is amended to read as follows:

- (1) The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available training for educators in reliable, replicable research-based reading models, and to promote literacy development. The center shall be responsible for:
  - (a) Developing and implementing a clearinghouse for information about models addressing reading and literacy from the elementary grades through adult education;
  - (b) Collaborating with public and private institutions of postsecondary education *and adult education providers* to provide for teachers and administrators quality preservice and professional development in early reading instruction, including phonics instruction;

- (c) Assisting districts located in areas with low levels of reading skills to assess and address identified literacy needs;
  - (d) Providing professional development and coaching for classroom teachers, *including adult education teachers*, implementing selected reliable, replicable research-based reading models;
  - (e) Developing and implementing a comprehensive research agenda evaluating the early reading models implemented in Kentucky under KRS 158.792;~~and~~
  - (f) Establishing a demonstration and training site for early literacy located at each of the public universities; *and*
  - (g) *Evaluating the reading and literacy components of the model adult education programs funded under the adult education and literacy initiative fund created under Section 7 of this Act.*
- (2) The center shall submit an annual report on its activities to the Governor and the Legislative Research Commission no later than September 1 of each year.
- (3) With the advice of the Department of Adult Education and Literacy in the Cabinet for Workforce Development and the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location~~no later than October 1, 1998,~~ and monitor the *progress*~~establishment~~ of the center.

Section 30. The following KRS sections are repealed:

151B.0235 State Advisory Council for Adult Education and Literacy.

151B.140 Statewide adult literacy program.

Section 31. Sections 17 to 22 and 25 of this Act take effect August 15, 2000.

**Approved April 26, 2000**